California Journal

THE MONTHLY REPORT OF STATE GOVERNMENT AND POLITICS

Lax Labor Safety Enforcement Found

Higher Education Master Plan Studied

Is There Another Way to Reapportion?

Nader on Water Quality Control

Committee Votes May Be Recorded

February 1972 in Review

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Editor's Note

It is a great pleasure to announce some rather major changes in the ownership and financing of the *California Journal,* which, while they may not be immediately visible in the magazine itself, will provide a solid foundation which will enable the *Journal* and a number of attendent activities to flourish.

California Journal has been sold to the California Center for Research and Education in Government, a newly formed public, nonprofit, tax-exempt California corporation. The primary activity of the Center is publication of the *Journal;* but it will also serve as a center for research in state government problems, a forum for discussion of policy questions, and as a sponsor of internship programs, educational activities, and other efforts to inform people about state government, politics and public issues.

The Center is governed by a board of directors composed of distinguished state leaders in public affairs. We will release the complete list of their names with the next issue. The present staff will continue to edit the *Journal* and, as officers of the corporation, to be responsible for the Center's day to day activities.

The Ford Foundation has approved a $150,000 three-year grant to the Center for support of the *Journal,* to be matched by a minimum of $75,000 in California contributions. The Michael J. Connel Foundation of Los Angeles has approved a $25,000 grant to the Center, as well.

The *Journal* was launched two years ago by five people: Jud Clark, Vic Fazio, Jerry Evans, Bill Geyer and Tom Hoeber. We were somewhat naive about the extensive financial resources necessary to produce a monthly publication on state government and politics which would provide balanced, objective and in-depth reporting of state government news. Within a year and a half, we had begun to experience serious financial difficulties, but we were certain that we had demonstrated that the concept was viable and important. The Ford Foundation thought so too, and it is to their confidence and that of Bill Grinker, their program officer with vision, that we owe the survival of the *Journal.* We take pride in the fact that we were rash enough to launch the *Journal.* We are delighted others have come along to help us see that our project continues.

Vic Fazio is now working for the Legislature. Jud Clark and Bill Geyer, while they will continue to contribute to the *Journal,* are full-time private consultants on governmental problems. All three went through the toughest times. We remember our debt to them now in good times.

Many, many others have helped us to get here. There are some who should remain nameless, who lent us money personally when they knew the odds were long. Gay Clark has managed our subscription department for these two years virtually without compensation. Our editorial advisory committee helped us to evolve and strengthen the magazine's content. Our printer, Cal-Central Press, has endured what must surely have been the highest-risk, lowest-paying customer in its history. Governor Ronald Reagan, Lieutenant Governor Ed Reinecke and Speaker Bob Moretti wrote letters to Ford in our behalf with the certain knowledge that their assistance would in no way alter our intent to remain as objective and nonpartisan as we know how. Our banker at United California Bank, Gus Frouws, came to our rescue several times when we found ourselves up against the wall financially. There are many more who have helped us in various ways. To all of you we express our deepest appreciation.

* * *

Back in the world of the February issue, the lead article on committee votes was researched by Phillip Thomas, intern from Sacramento State College. Phil is completing the second year of a two-year master's degree program in government.

* * *

If you have been reading in your local paper about a study by the *California Journal* which evaluated individual legislators on their voting records, it's not true. An Assemblyman used our voting record, counted up the number of times legislators failed to vote on a bill, and ranked them on that basis. He then issued a press release saying his analysis was based on our votes. As in the party game where you pass a whispered statement around a circle, by the time the press release had been rewritten by some newspapers it appeared that we had conducted the analysis. Thus the *Burlingame Advance-Star* managed to come up with the headline "Journal Praises Gregorio's Record."

We did not publish an analysis of the number of times legislators voted or failed to vote. We are not sure what such a count means, and if we had published one we would have explored its meaning in terms of the definition of a key vote, the relative importance of floor votes compared to committee work which may be going on at the same time, the difference between not voting for reasons of illness or campaigning, and other reasons.

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Legislature Moves Toward Approval of Recorded Committee Votes

The tired and frustrated Legislature that convened on January 3rd to resume the work of hearing, debating, amending and occasionally passing the laws by which California is governed seemed to promise few surprises. Sandwiched between last year's legislative marathon and this year's election campaigns, the 1972 session was generally expected to be relatively short and unexceptional. Several important pieces of legislation which failed passage in 1971 were promptly reintroduced in the new session, but there was little optimism regarding their chances in the absence of a major change in the composition of the Legislature or in the rules by which it operates. There could be no substantial change in membership until 1973, and there was no reason to expect a revision of the rules without a long fight.

All of this changed rather abruptly in mid-February, however, when the Senate Rules Committee gave its approval in a 4-1 vote to SCR 4 (Behr), which amends the Joint Rules of the Senate and Assembly to require that there be a recorded roll call vote on every piece of legislation referred to a Senate or Assembly committee. The action by the Rules Committee, which in the past has been considered a stronghold of traditionalists, suddenly made it not just possible but probable that the committee vote rule would be changed this session. Two weeks later, the measure was approved on the Senate floor by an overwhelming 34-3 margin.

Voice Vote

At present, nearly all committee actions in both houses are by voice vote, a practice which has been followed since the earliest days of the California Legislature. After a bill has been presented and debated, a motion may be made to move the bill to the floor (or to another committee or to assignment for interim study) and the vote is called for. The chairman calls for the "ayes" and the "nays" and announces either "the bill is out" or "the bill is still with the committee." Sometimes committee members merely move their lips, without voting audibly. Other times they vote both aye and no, put their hands over their mouths, or turn their backs to the audience while voting. To the audience, only the final verdict is known. There is no sure way to know how each member voted; there is no way to confirm the chair's count; there is no official record to consult later.

It is possible, under the present rules, for a member to call for a roll call vote, and this occasionally happens, particularly in the Assembly on highly partisan measures. But it happens only rarely on other measures, for a call for a roll call vote is regarded as a serious challenge to the chairman's leadership and honesty and no legislator gladly offends another in that fashion.

The fate of almost all bills is decided in committee, not in the floor where votes are now recorded. Last year, for example, almost 5000 bills were introduced in both houses. Of these almost exactly half died in the committee in the house in which they were introduced. Of the other half, fewer than twenty in each house were denied passage on the floor. Of those bills that pass the house of origin, about a quarter die in committee in the second house. Fewer than a handful of the bills that get out of committee in the second house die on the floor.

The "vice of the voice vote", said Republican Senator Peter H. Behr, author of SCR 4, to the members of the Senate Rules Committee, is that by encouraging secrecy it creates "a cloud of suspicion that unfairly hangs over all members of the Legislature." The roll call vote, Behr says, is "an essential part of the democratic process. No one can deny that a person's right to vote includes his right to know how his elected representatives vote on all the issues, all the time." The process breaks down in legislative committees, Behr contends. "It's the votes in committee that really count. Yet many good bills are killed in committee without any record of how individual committee members voted."

Demand for Reform

Behr's views have been shared for years by individuals and organizations which have come to Sacramento to press for what to them is an essential piece of legislation, only to see their measure defeated in a somewhat mysterious procedure that leaves them confused, frustrated and often cynical about the legislative process. Organizations that employ professional lobbyists in Sacramento do not often have this difficulty, for it is one of a lobbyist's duties to know what the vote will be even before it is taken, if that is at all possible. It is the so-called "public interest" lobbies — the environmentalists, consumers, minority rights groups, and others — which have chafed most under the existing system. And it is the growth in legislative activity by such groups, and the environmentalists in particular, that led Behr to introduce his reform measure this session and helped to make it possible for him to get it through the Senate without amendment.

If any one organization can take credit for making the recording of committee votes "an idea whose time has come," as Behr describes it, it is the Legislative Birdwatchers. The Birdwatchers were formed in 1970 with the backing of the Sierra Club, the Planning and Conservation League, the Clean Air Council, and other environmentalist groups to provide a way to keep track of legislators' voting on the major environmentalist issues. To do this, 15 to 20 volunteers were recruited, most of whom were housewives, students and retired persons, to sit in the committee rooms and attempt to record the vote (or lack of a vote) of every committee member. Since many of the legislators have become skilled in concealing their voice vote, this has not been easy to do, but with each Birdwatcher watching a sin-

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gle committee member, the Birdwatchers have become increasingly successful in establishing a reasonably accurate record of committee votes on their priority bills. To those who have challenged the accuracy of the Birdwatchers' voting data, the group's chairman, Joan Reiss, points out that a more accurate record could easily be established by going to officially recorded roll call votes.

In addition to the new public interest lobbies, there has been long-standing suport for recorded votes among the traditional watchdogs of the public's right to know — the press. Behr's resolution struck a responsive cord among the state's newspapers and radio and television stations, and they quickly provided extensive coverage and strong editorial support for his proposal.

Opposition Muted

SCR 4 was introduced in the Senate on January 11th. Within two weeks, 23 Senators, including ten committee chairmen, and twenty-four Assemblymen had become co-authors. When SCR 4 was heard by the Senate Rules Committee on February 16th, five Senators appeared in support of the measure: Senators Burgener, Grunsky, Moscone, Petris and Gregorio. Only one member, Senator James Wedworth, spoke in opposition.

It would be very misleading, however, to suggest that public pressure has been the sole reason for the extent of the Senate support for SCR 4. An important precondition for its success was the fact that the coalition of Senators who successfully rebelled against the old guard control of the Senate in 1970 has as one of their reforms opening up the hitherto close-knit Senate to greater public scrutiny. Furthermore, many legislators felt that the conduct of the 1971 reapportionment has added considerably to the public's skepticism as to their concern for the public interest, and they were receptive to any measure which promised to have the opposite effect.

This attitude resulted in two actions that assured the passage of Behr's resolution in the Senate. First, President pro Tem James Mills set an early date for hearing SCR 4, thus depriving any organized opposition the time to mount an effective campaign against it. Moreover, the fact that SCR 4 was given a public hearing made it extremely difficult for the committee members to kill the resolution by refering it to further study. Second, the five Senators who joined Senator Behr in presenting the bill before Senate Rules Committee gave the issue a broad bipartisan base of support and made it impossible for opponents of the reform to isolate Behr. Behr capitalized on this by presenting the measure as one which would benefit the operation of the Senate and which would work to the advantage of all its members, rather than simply as reform required to satisfy external pressures.

Opposing Arguments

Not everyone has rushed to embrace the recorded roll call rule, and there are a number of objections frequently raised in private if not so often in public. Several legislators have complained of the "excessive costs" of implementing the reform — the cost of preparing and publishing the thousands of committee votes which occur each session. The state printer, however, estimates the cost of printing the records of committee votes at no more than $7,000 to $20,000, depending on the format and frequency of the printing.

It is also argued that required roll call votes will seriously slow down the legislative process either by encouraging absenteeism on controversial measures or by requiring the committees to delay voting in order to get all the members recorded. Currently, if a member is absent from committee, and a majority of the committee acts to move the bill out of committee, his vote does not make any difference to the outcome. However, when the votes are recorded, absent members may want to get on record. In addition, committees votes almost always come on a motion to move a bill out of committee. When a motion fails, it is only the absent members who are for the bill who make a difference in the outcome, not absent members who are against the bill. With recorded votes, everyone will have a reason to want the vote delayed so that they may get on record, not just absentees who favor a proposal.

Many proponents of roll call voting feel that the real issue is the practice of "ducking" controversial votes. Since a member's absence is the same as a "no" vote, a member may appear to favor a bill yet actually help to kill it through judicious non-attendance at committee meetings. A more accomplished approach is to disguise a no vote under the voice vote practice. While recorded votes will eliminate the latter practice, they may also encourage more members to be absent.

Veteran Senator Ralph Dills argued in the hour-long debate on the Senate floor that the backers of the bill are trying to intimidate Senators by exposing their votes to public scrutiny: "It's not that they don't know how we vote, they want us to vote the way they want us to vote. They wish to influence you, to scare you." Dills, who predicted the bill's passage, added: "It's been effective. I must take my hat off to them."

Dills isn't the only member who feels that increased public pressure may not improve the product of the Legislature's deliberations. Assemblyman Mike Cullen argues that the unrecorded voice vote provides a legislator with a necessary tool to kill bad bills which may have gained temporary popular support. Cullen's argument is that legislators will be less able to exercise their leadership role on issues which have excited popular emotions if all their votes must be made public.

Another argument against SCR 4 is voiced by senior senators and assemblymen who fear that it is they who will suffer most under the roll call system, because they more often have necessary and conflicting legislative duties which require them to be absent from their committees. As a consequence, they often accumulate poor records of committee attendance and voting, a fact which will be all the more apparent under the pro-

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posed new rule. In testimony before the Senate Rules Committee, however, Senator Donald Grunsky, the senior Senate Republican, argued that this will not really be a problem. All committee chairmen, he pointed out, are presently empowered to leave the roll open on a bill long enough to permit absent members to report in and get on the record.

In addition to objections to the concept of the bill as such, a number of changes in the Behr bill have been proposed to "strengthen" it or make it "procedurally more sound." Such proposed amendments include requiring a roll call vote on amendments, the mandatory setting of bills for hearing, printing the names of absentees and those present but not voting, giving subpoena powers to all committee chairmen, and reducing the cost of the measure by requiring only that there be a record available to the public rather than that it be printed in the daily journals. Behr has so far refused to accept any of these amendments, suggesting instead that each house may establish its own procedures for implementing the new joint rule. He has made it clear that he will continue to oppose such amendments, fearing that the greatest threat to SCR 4 may come not from his opponents, but from his friends, who could "love the bill to death."

Assembly Fate

Somewhat ironically, SCR 4 may face its severest test in the Assembly. The Assembly Rules Committee chairman, liberal Democrat John Burton, has surprised many by becoming the most outspoken opponent of the resolution. Burton calls SCR 4 "stupid, expensive, wasteful, inefficient and unnecessary." At one point he attempted to link Speaker Bob Moretti with him on this issue, but Moretti quickly issued a statement in which he pledged his full support for SCR 4. Burton was not deterred by this from continuing to voice his opposition, however. "I've always been known for being my own man," he said, "and the Speaker's announcement has no effect whatsoever on my own position and opinions."

Burton has introduced a counterproposal, ACR 24, which allows a roll call vote "upon request of any member of a committee." Committee voting records would be kept with the committee secretary for one year to be made available to the public upon request. After one year, the records would then be sent to the Assembly and Senate Offices of Research, where they would be filed for two years and then destroyed. To the argument that as a matter of custom members now have this power but refrain from demanding recorded votes on controversial bills, Burton says, "if a guy doesn't have the guts to request it, then he'll have to answer to the people in his district." ACR 24 remains the principal threat to SCR 4, since it could be a vehicle for Assembly amendments if Senator Behr refuses to accept amendments to his bill.

Several other members of the Rules Committee have also expressed their concern about the Behr bill and their intention to amend it. Those who were willing to speak for attribution to the *Journal* were:

Assemblyman Leo Ryan: "I want to clean it (SCR 4) up so we don't have a *reductio ad absurdum*. We need to require that a bill be set, that a roll call be held at the request of the author, and that the roll be held open until all committee members have voted if the author requests."

Assemblyman John Quimby: "There are problems with the Behr bill that need to be worked out. First there is the problem of the many scheduling conflicts of members. Secondly, the expense and workload of publishing the votes in the daily journal would be astronomical. And thirdly, there must be a provision for requiring that a bill receive a hearing. I think the Assembly Rules Committee will amend the bill to solve these problems."

Assemblyman Robert Burke: "I'm a coauthor of Behr's bill and I intend to vote for it. But it leaves a lot of problems unresolved. Scheduling conflicts have to be resolved and provision might be made for some sort of absentee voting where conflicts do exist. This proposal should be dovetailed with the present study of legislative reorganization."

Moretti's Support

It is most significant, however, that SCR 4 has received the full support of Speaker Moretti, who promised that what he termed "this long overdue procedural reform" will get "very good treatment in our house." Moretti says he opposes the present practice of permiting a legislator to vote against a bill in the secrecy of a committee. "Anyone who appears in favor of something publicly because he knows he can torpedo it privately," he says, "may have all the markings of a good counterspy, but he doesn't belong in the California Legislature."

The division of opinion between Moretti and his Rules Committee chairman on this issue nevertheless presents problems for SCR 4. Burton is now the leading advocate of the need to "strengthen" the bill with amendments. The principal change he wants is to require a roll call vote on committee amendments to bills, because it is through such amendments that bills are often "gutted." This is an amendment that proponents of recorded votes find difficult to fault. It does, however, add to the "expensive" and "wasteful" burden associated with roll call votes that Burton himself complained about.

Burton also says he will support amendments which require the committee roll to be held open for some period of time, or permit proxy voting, practices which are generally disapproved of by the Senate. If these amendments are included in the resolution, its passage may be assured in the Assembly, but it could run into difficulty in the Senate on the vote to concur in the Assembly amendments.

Behr has made it clear that he will continue to resist any amendments: "It's easy to make the bill better. But it's easy in the process to get it killed. Let's try this out and after some experience no doubt we can improve it." Whether Burton's determination to "improve" the resolution or Behr's resistance to amendments will prevail remains to be seen. If SCR 4 gets out of the Assembly Rules Committee unamended, its passage is all but assured. If the bill is amended, the road to passage may become much more difficult.

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Assembly Investigation Charges Lax Enforcement of Labor Safety Laws, Administration Promises Reforms

The Sylmar Tunnel in northern Los Angeles County is a major link in the system to transport water from northern California to customers of the Metropolitan Water District of Southern California. Among the half-dozen tunnels required to move water from the Feather River to Southern California users, the Sylmar Tunnel (officially titled the San Fernando Tunnel for the Foothill Feeder) is one of the longest, being 29,055 feet or about 5.5 miles in length. The tunnel is the property of and being constructed by the Metropolitan Water District. The principal contractor for the tunnel is the Lockheed Shipbuilding and Construction Company (a subsidiary of Lockheed Aircraft Corporation). Work on the tunnel began on March 25, 1969, and by June 1971, Lockheed, with the aid of a new self-propelled excavator which works with the action of a human hand and can bore a tunnel 18 feet in diameter as fast as 200 feet a day, had pushed to within 2,000 feet of the tunnel's end. According to Wallace J. Zavattero, the state's safety engineer for the project, work was proceeding in a normal fashion and it looked like "a good job." The accident rate was low and, in Zavattero's words, "the job supervision was acting positively in an accident prevention effort."

There was reason for special concern, however, as the tunnel neared completion. The Los Angeles earthquake on February 9, 1971 had moved the surrounding earth sufficiently to require the contractor, at the state's direction, to carefully review the tunnel's entire support system. Moreover, in its final two thousand feet the tunnel had to pass through the Santa Susanna Fault and into an area in which, according to advance earth core samples, significant amounts of oil and gas were likely to be encountered. For both of these reasons, an MWD spokesman acknowledged in later testimony, MWD and Lockheed officials knew that they should exercise caution as the hole moved forward.

It is doubtful, however, that their concern was communicated to the workers in the tunnel, who probably would have given it little thought in any case. As one of the workers observed, "if you ever worked in a tunnel and done it all your life, you're not too leery (of such dangers), or you wouldn't be there."

On June 23, 1971 safety engineer Zavattero was awakened at six in the morning and informed that four hours earlier, during the "graveyard" shift, there had been an explosion and flash fire in the tunnel which had injured four men working at the face of the excavation. Zavattero went immediately to the tunnel, which had been closed to all workers by the contractor, and inspected it to determine for himself the extent of the danger of additional gas seepage at the tunnel face. Later that day Zavattero authorized work to be resumed, but only after the contractor agreed to improve the ventilation system and to provide continuous testing for flammable gases. Work was to be stopped if flammable gases reached two percent by volume in the air at the face.

The workmen were sent back into the tunnel that afternoon for the swing shift under conditions of "extreme caution." At three the following morning Zavattero was again awakened by a telephone call from the tunnel site: there had been another explosion in the tunnel, and it was believed that 17 of the 18 men working at the face were dead.

Legislative Investigation

These deaths triggered an investigation by a special three-man subcommittee of the Assembly General Research Committee, formed at the direction of Assembly Speaker Bob Moretti. The subcommittee, which included two Democrats and one Republican, held three days of hearings in San Fernando in September to determine, according to subcommittee chairman Jim Keysor, "why those 17 men are dead" and whether existing safety laws and regulations were adequate to prevent the explosion and fatalities had they been enforced. Among those who testified, many of whom were subpoenaed by the subcommittee, were representatives of the Metropolitan Water District and Lockheed Shipbuilding and Construction Company, administrative and supervisory personnel from the Division of Industrial Safety, safety engineer Zavattero, and the sole survivor of the accident, as well as several other Lockheed employees, labor union representatives, and safety consultants to the contractor and the union.

The testimony gathered by the subcommittee presents a picture of a major construction project moving rapidly toward completion, with nearly all involved, from the MWD and Lockheed personnel to the individual supervisors and workmen on the job, intent upon getting the job done. There is little evidence of concern about the rapidly increasing hazards encountered as the tunnel crossed the fault zone and entered the area of heavy gas accumulation. Thus even after the warning

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explosion on June 23rd in which the four men were injured, the work of pushing the shaft forward was halted for less than 12 hours. Two workers who became alarmed by the heavy concentration of gas and refused to go back into the tunnel after the first incident agreed later that their fears were not shared by their fellow workers.

State Wouldn't Act

It is also evident from the testimony that the state safety personnel were not prepared to stop the project for any significant period of time in the absence of the major catastrophy which finally occurred. Zavattero, the state's safety engineer, had decided, apparently, that his superiors did not like him to "red-tag" a project, that is, put up a warning notice which the workers might use as justification to halt work, in the absence of an extreme safety order violation. Nor did he feel he could justify issuance of a "yellow-tag" which would close it down entirely until safety measures were complied with. Although Zavattero agreed in retrospect that he should at least have put up a warning notice, he instead gave the contractor a list of seven steps with which the contractor was to comply before starting work again, and did not himself see that his order was carried out.

As a consequence, the contractor was able to send the miners back into the tunnel less than 12 hours after the first explosion and under conditions of extreme hazard. With one man taking readings on a metering device (at a point away from the most concentrated releases of gas from the freshly dug earth), digging was advanced, then stopped, then advanced once more throughout the swing shift and into the graveyard shift. According to later testimony, those operating the excavating machine thought that "the amount of gas given off was within our control," but it was necessary to halt the digging as many as thirty to forty times that night to allow the concentration of gas to drop enough so that work could go forward once more. During all this time not only were there many electrical devices being operated which were known to be potential sources of ignition, but, according to one of the workers, the miners were permitted to smoke freely. It was only a matter of time, it seems clear in retrospect, before the second blast, the explosion which is believed to have killed nine of the 18 miners outright and resulted in the suffocation of eight others in the ensuing smoke and dust.

Thus, with the benefit of hindsight, it appears that when work was resumed on the evening of June 24th, the second explosion was inevitable. But there was nothing at all inevitable about the contractor's failure to stop work until the gas discharges could be carefully evaluated and effective safety precautions taken, nor was the state's failure to insist upon such action inevitable. It was only when the subcommittee began moving back through the events and decisions which led to the tragedy that they uncovered conditions within the Division of Industrial Safety which seem to explain much of what did and did not occur at the Sylmar Tunnel — and on other construction projects in recent years which have been plagued by serious accidents.

Voluntary Compliance

The principal fact brought out in the hearings and related investigations is that the division has increasingly sought "voluntary compliance" on the part of construction contractors, emphasizing "education" rather than strict enforcement of its safety orders. Although the legislative investigators pointed out repeatedly, the division's first responsibility is the protection of workers, but its enforcement policies in the construction section appear to have become strongly influenced by a desire to inconvenience contractors as little as possible. It had become the division's policy, in fact, that safety inspectors in the field were expected to issue letters to contractors listing any violations of state safety orders, rather than to put up a "red tag" which might stop a part of a project until the violation was corrected. In many cases this gave the contractors several weeks or a month before they had to worry about complying with the orders, as the inspector was unlikely to return sooner. Similarly, the inspectors were expected to use red tags, which shut down the whole project. The guiding principle in the division, according to the testimony received by the Assembly committee, is that contractors will take all necessary precautions for the safety of employees if they are informed of those precautions.

This view is not widely shared by the individual safety engineers in the field, however. Experience has

Select Committee

The Assembly Select Committee on Industrial Safety is one of five special research committees set up under the Assembly's General Research Committee, which has as its chief function the operation of the Assembly Office of Research.

The members of the Select Committee on Industrial Safety are Assemblymen Jack R. Fenton (chairman), Dixon Arnett, Jim Keysor, Newton Russell, and Larry Townsend. The committee employs two staff consultants: Jerry McFetridge and Jack Johnson.

The four other Assesmbly special research committees are the Select Committees on Administration of Justice, Health Manpower, Manpower Development, and Prison Reform and Rehabilitation.

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taught them that many contractors give little attention to safety precautions and will too often ignore state safety regulations if they are permitted to do so through lax enforcement. This difference of viewpoint, which was reported by all those who examined the division closely, has produced a sharp drop in morale among safety engineers in recent years, making it all the more difficult for them to do their work well.

Select Committee

Much of this was brought out in the initial subcommittee hearings in September. As a result of the subcommittee's findings, Assembly Speaker Moretti set up a five-member Select Committee on Industrial Safety to continue to conduct the investigation of the charges against the division and to determine what legislation may be necessary to strengthen the state's hand in reducing industrial accidents. The select committee, chaired by Assemblyman Jack Fenton, a member of the earlier subcommittee and newly appointed Majority Floor Leader in the lower house, began hearings on these subjects in Sacramento on January 12th and 13th.

These hearings were devoted in large part to a rehearing of several witnesses who had testified before the earlier subcommittee, but there was additional testimony from several state safety engineers who recounted instances in which they had been overruled by division officials in San Francisco when they tried to enforce safety orders in the field. As a result of investigations conducted by the committee staff, it was brought out that there were a number of major construction projects in recent years in which contractors apparently had been permitted to ignore state safety regulations with impunity, with the result that there were numerous disabling injuries and fatalities which might otherwise have been avoided.

Division Chiefs Testify

With this testimony in hand, the committee turned to questioning the top officials of the division, including division chief Jack F. Hatten, assistant chief George Sherman, and the assistant to the chief Vincent L. White, as well as William C. Hern, director of the Department of Industrial Relations, of which the Division of Industrial Safety is a part. Hatten and the others defended the division's record in enforcing the safety regulations and attempted to explain to the legislators why it was occasionally necessary to reverse decisions in the field and why the division had come to emphasize voluntary compliance rather than prosecution and other methods of ensuring compliance with the laws. Hatten reported that the division has issued some 285,000 orders in 1971 for employers to correct unsafe conditions and pointed out that it was obviously impossible for the state to bring legal action in each of these cases, despite the fact that every violation of a safety order is a misdemeanor. Hatten and White argued that the time and cost of taking a violation to court simply to levy a small fine was only rarely justified. However, when White was asked directly to explain the drop in prosecutions from 21 in 1966 to five in 1971, he said, "I am not sure I have a good explanation."

Fenton was unimpressed with this testimony and commented at one point, "I think the division stinks, absolutely stinks." He and other members of the committee found themselves in agreement with John Cinquemani, Executive Secretary of the Los Angeles Building and Construction Trades Council, who told the committee that the division's enforcement policies were "a slow foot-dragging method that in many instances, in itself, is the cause of serious accidents and fatalities." The lack of prosecution of employers who continually violate state safety orders, he said, is "creating an attitude of disrespect and disregard for the safety engineers and the division as a whole."

Under heavy attack from the committee, Hatten and White were called into the Governor's Office before the start of the second day of hearings on January 13th to discuss their testimony. "As a result of the discus-

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Agency Recommendations

The following recommendations were submitted to Governor Reagan by Earl Coke, Secretary for Agriculture and Services, based upon the report of the administration's Select Labor Management Fact Finding Committee on the Division of Industrial Safety.

"1. That the committee's findings and recommendations be turned over to Roy J. Bell, the newly designated chief of the Division of Industrial Safety with the understanding that he will study the findings and implement those recommendations which he deems appropriate.

"2. That the Division of Industrial Safety and the Contractors' State License Board jointly determine and implement whatever procedures are necessary for suspending or revoking the licenses of contractors who violate safety regulations.

"3. That the Director of the Department of Industrial Relations promptly confer with the State Attorney General and local district attorneys in an effort to expedite the preparation and prosecution of safety violation cases.

"4. That the Department of General Services, Department of Public Works, and other state contracting agencies disqualify from bidding on state contracts any contractor whose safety record shows a pattern of disregard for the safety of its employees.

"5. That the Director of the Department of Industrial Relations continue to vigorously pursue negotiations with the Department of Labor in connection with the Federal Occupational Health and Safety Act in order that the 1972-73 budget for the Division of Industrial Safety may be augmented by the maximum amount of federal funds to become available under that program.

"6. That legislation be introduced to reimburse the division for the costs of its inspections of pressure vessels and elevators.

"7. That the Director of Finance and the Secretary of the Agriculture and Services Agency immediately develop recommendations for augmenting current (1971-72) budget for the division.

"8. That you invite leaders of labor and management to discuss with you the safety of California workers."

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Two Study Groups Take Another Look at California's Higher Education Master Plan

To some, California's Master Plan for Higher Education, which was written in 1959-60 by a team of the state's leading educators and given the force of law (with some changes) in the Donahoe Act of 1960, has served as the essential blueprint for the development of California higher education over the past decade. To others, the Master Plan is not a plan at all but a political agreement between the University of California and the state colleges, which has served to protect the University's status as the state's preeminent public institution of higher education and to hold at bay legislators and others who tend to think that higher education may be too important to left solely to the educators. It is the first view which has been predominant over the years since 1960, and, somewhat remarkably, it is that view which seems to prevail today.

Thus it is also remarkable that there are underway at present two separate studies of the Master Plan, both of which offer the possibility, if not the probability, of producing recommendations which challenge the basic concepts of the Master Plan. And it is all the more remarkable because there appears to be so little interest among educators, legislators and the administration in effecting significant changes in the state's system of higher education. There is a good deal of dissatisfaction with certain aspects of higher education, but there is at the moment no real constituency for change.

Joint Committee

The Joint Committee on the Master Plan for Higher Education was established in September 1970 to "ascertain, study, and analyze all facts relating to the development of a new Master Plan for Higher Education in California," with particular attention to such matters as the purposes of institutions of higher education, their governance, methods of assuring accountabiilty, qualifications for admission, accessability for low-income students, the allocation of available financial resources, and the relative emphasis on graduate and undergraduate programs. These were much the same guidelines as had been adopted for the Joint Committee on Higher Education, which was first established in 1965 under the chairmanship of Assembly Speaker Jesse M. Unruh, and it is important to an understanding of the committee's role that it is not only a potentially important vehicle for a review of the structure of higher education, but also a device for maintaining a continuing legislative review of the structure, operation and objectives of California's public and private system of higher education.

The committee members were appointed in March, 1971. In May of 1971 they adopted an initial study plan which called for a three-phase study to begin with a dual effort to identify "significant questions about California higher education" and to "involve the public and the education community in the work of the committee." The second and third phases provided for the development of a specific study plan and implementation of that plan, leading finally to the formulation of recommendations to the Legislature.

The first action of the committee was to sponsor a two-day meeting attended by nearly 90 campus officials, students, faculty, public school representatives, and interested citizens who were asked to aid the committee in identifying "the major questions which should be raised about California higher education" and methods by which the committee might deal with those questions. Later, in September, the committee heard testimony from selected "experts" on the nature of society in coming decades and the manner in which higher education should be shaped to be of maximum service.

According to Pat Callan, chief staff consultant to the committee, the first meeting was particularly productive and useful because it gave many persons from a wide range of backgrounds an unusual opportunity to express their views as to the objectives and problems of higher education. It was probably just as important, however, as an expression of one of the basic objectives of the committee chairman, Assemblyman John Vasconcellos: to involve as many people as possible in the study and to give them a feeling of participating in the committee's work.

This somewhat unique approach partially backfired later in the year when the committee staff mailed approximately 1500 letters to educators, students, businessmen, labor leaders, and others ("our total community") asking them what they wanted from postsecondary education in California and inviting them to participate in the work of the committee through their responses. "We contacted individuals and organizations who have a vital and direct interest in the future of higher education," Vasconcellos said late in December, "but we received only 180 substantive replies." Disappointed at this meager response, Vasconcellos listed among the possible explanations apathy, fear of change, abdication of individual responsibility, and cynicism as to the committee's intentions. Apparently Vasconcellos and his staff were not greatly dismayed, however, for in that same month they mailed out 1300 copies of the committee's tentative study plan for review and comment by the educational community and others who had expressed an interest.

Study Plan

It was not until January of this year that the committee adopted a final study plan outlining its activities for the year leading up to its report to the Legislature early in the 1973 session. The study plan combines the directives contained in the resolution which established the committee, an additional directive (ACR 166) ap-

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proved by the Legislature in November 1971, suggestions obtained in the committee's two-day meeting in May of 1971, and testimony from a public hearing held in October. According to the study plan, the committee will address itself to the following seven policy areas:

- The goals, purposes and priorities of California post-secondary education;
- The structure of public post-secondary education;
- Governance and coordination;
- The role of private higher education;
- Alternative forms of higher education;
- Financing higher education; and
- Planning for higher education.

Early in February of this year the committee began a series of seven public hearings to receive testimony on the policy alternatives within each of these categories. For the most past, these hearings are intended simply to give interested persons an opportunity to enter their views on the record. It is not surprising, therefore, that the first four hearings generally failed to bring out much new information and were dominated by representatives of the University, state colleges, community colleges, and private institutions who reiterated much of what they had said over the years on similar occasions. Perhaps the most striking aspect of the testimony has been the general agreement among educators that there are very few, if any, changes which need to be made in the 1960 Master Plan.

After completing these hearings in April, the committee plans to initiate a second round of hearings in which representatives of the four segments are to be questioned closely regarding their earlier testimony and their specific views on the matters under study by the committee. During this same time, it is planned that the committee will contract for as many as fifteen special studies to describe and analyze the principal features of such matters as student financial aid, budget procedures, the composition of governing boards, etc. These studies are not intended to produce specific recommendations but background material to inform the committee on some of the more technical matters before it.

Campus Survey

In March the joint committee will launch a large-scale survey of educators, students, faculty and others as to their opinions regarding the goals, purposes and priorities of higher education. Using a questionnaire which has been developed for this purpose by the Educational Testing Service in Princeton, New Jersey, the committee hopes to survey 200 to 300 persons on every campus in California. The results will be tabulated and analyzed by ETS (which has not yet tried its questionnaire on such a large sample), which will give the results to the committee in the late spring. University of California President Charles J. Hitch and other University officials have objected to this survey, saying that it is likely to produce little that is useful, but they have been unable to convince the committee that it should not be undertaken.

With this material and the other information to be assembled by the staff, the committee will begin, sometime during the summer, to develop its findings and recommendations in each of the seven areas of the study. It is hoped that the staff will receive a draft of the report of the Coordinating Council's Select Committee on the Master Plan by September so that it can consider the recommendations of that group while it is still formulating its own positions.

The committee's final report is due to be submitted to the Legislature in January, 1973, and it is evident that Vasconcellos and his staff intend to meet that deadline if it is at all possible. Whether they will be able to do so with a report which actually covers all the issues and questions they have listed for themsleves, and which makes a significant contribution toward strengthening higher education in California, remains to be seen. The committee has gone to great lengths to obtain the views of many people, but it is only now beginning to face the even more difficult problem of converting these views and its own findings into recommendations which the Legislature can and will find useful.

Members of the Joint Committee on the Master Plan for Higher Education

Assemblymen:	Senators:
John Vasconcellos (Chairman)	Howard Way (Vice-Chair.)
Willie Brown	Alfred Alquist
Jerry Lewis	Dennis Carpenter
Ken Meade	Mervyn Dymally
John Stull	Albert Rodda

Consultants: Patrick M. Callan, Dan Friedlander, Sue Powell

Members of the CCHE Select Committee on the Master Plan:

Burnham Emerson	Gordon S. Marshall
Donald M. Hart	Roger C. Pettitt
Louis Heilbron	Joseph Platt
Richard A. Hernandez	Carlyle Reed
Ivan Hinderaker	Jeanette Ritchie
David D. Harford	Armen Safafian
Paul Lawrence	Gordon Smith
Stanley W. Legro	Stephan D. Sugarman
Thomas McGrath	

Executive Director: Durward Long

Select Committee

The Coordinating Council's Select Committee on the Master Plan faces much the same problem as the joint committee, but it now has even less time in which to complete its work. Appointed in May of 1971, the committee did not start working until the end of June, but must complete its study in time for submission to the Council in October of this year.

Like the Joint Committee on Higher Education, the select committee got off to a slow start. When it was

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UC President Charles J. Hitch Talks About Master Plan Studies and UC Financial Problems

Dr. Charles J. Hitch took office as President of the University of California January 1, 1968. An economist, Hitch was chairman of the Research Council of the RAND Corporation prior to his appointment in 1961 as Assistant Secretary of Defense and Comptroller of the Defense Department. In 1965 Hitch was appointed UC Vice President for Budget and Finance and later served as Vice President for Administration before becoming President of the University. California Journal *interviewed President Hitch in his office on February 25th.*

California Journal: President Hitch, how do you think the California system of higher education would be different today in the absence of the 1960 Master plan?

Charles J. Hitch: Well, I suppose if the Master Plan had never been produced, something like it would have had to be invented. I don't know what it would have been, but I can't imagine that we could just have gone on for another 12 years without any sort of coordination.

I think the two important problems that were dealt with by the Master Plan were the organization of the state college system with a unified budget, taking the state colleges out from under the Board of Education and placing them under the Board of Trustees and making a system of them. And the other important thing is the differentiation of function between the state colleges and the University. That, I think, is the guts of the Master Plan. Plus some provision for coordination among the state colleges, the University, private institutions, and the community colleges, through the Coordinating Council. I'm sure that if the Master Plan hadn't been adopted by this time something else would have been.

Journal: The educators who have appeared before the Joint Committee on the Master Plan and the Coordinating Council's Select Committee on the Master Plan seem to be nearly unanimous in saying that they don't really feel the need for substantial change in the Master Plan. Why is it, then, that there are these two studies going on, and what do you see as their objectives in this context?

Hitch: I think it's rather remarkable, the unanimity with which the educators have testified. You would expect it, I think, from the University, but I've been quite interested in the minimal differences in the testimony between the university administration, university faculty and even more remarkable, the unanimity of the testimony from the other segments. The state colleges, the community colleges, one might expect to be dissatisfied, and one gathers that the dissatisfaction is not great. It certainly hasn't surfaced in any important way.

I think that it is perfectly apparent that there has been a lot of disaffection with higher education and for that matter, secondary and primary education, during the latter part of the 1960's, and I think whenever there is dissatisfaction there is a tendency to say "what can we do about it?" Perhaps the simplest thing to do about it is to reorganize. I've seen organization after organization go through this trauma and try to solve its problem by reassembling the pieces in a different way. I think that sometimes it helps, but other times it just creates a new set of organizational problems. But I think that's the basic explanation. Things have not been going well, and this was certainly fed by the campus disturbances, although not solely by that, and so people are saying "what can be do to improve it?"

Journal: Are you satisfied with the manner in which the Joint Committee on the Master Plan has conducted its business?

Hitch: Well, I've been pleased by their substantive hearings. I think they're now getting down to the nitty gritty.

Journal: They have a very short time, however, to complete their work.

Hitch: Yes, a short time to do it. I think that they spent a long time deciding what the questions were. I think most of us knew what the questions were at the time they started.

Journal: Hasn't the University raised objections to the polling of the University campuses as to their goals and objectives?

Hitch: We're just skeptical that much can come of that. There are over 200 campuses. It wasn't just the University campuses. They were trying to set up goals and objectives studies on all the campuses in the state: the nine university campuses, 19 state colleges, 90 community colleges, and over 100 private campuses. I just doubt that at this time that sort of churning will produce much that will be useful.

Journal: The University expressed strong reservations about the Coordinating Council beginning its study. How do you feel about the conduct of that study at this point?

Hitch: I think they've gone about their business in a very businesslike manner, with their subcommittees. I was quite impressed by the questioning I underwent when I appeared before them.

Journal: You mentioned in your testimony to the select committee that you felt differentiation of function had to be preserved. Do you feel it is threatened in in any way at the present time?

Hitch: I don't see any great threat to it, no. As you know, the select committee was told by Sid Brossman that they should study the diversion of all the lower division students to the community colleges. I think that's the only real threat that has surfaced so far. It's been rather interesting that nothing else has.

Journal: What would be the consequences for higher education, and particularly for the University, if all lower division students went to community colleges?

Hitch: Well, I think it would just completely change the character of the University and the state colleges. It would lead to a massive diversion of students, of

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course, to the community colleges. How many of those diverted students would, in fact, come back to the University for their upper division study after two years of community college, I don't know.

Journal: Many people feel that major institutions have to have an element of growth to maintain vitality. What are the consequences for the University in the tapering off of its growth?

Hitch: It certainly presents problems, but they're not new problems. There are a lot of very distinguished institutions that have not grown very much. For example, one of my institutions, Oxford University. It's been about the same size for a couple of centuries. So it can be done.

One of the things that tends to happen, if you cease growth, is that you've got an aging faculty. This would be a difficult problem, perhaps the most difficult. The next most difficult problem is that it makes it harder to start new programs. We are always going to have to start new programs. We're always going to have to adjust to changing demands on the part of the students and on the part of society. If you're static you can't start something new without cutting down something old. And that's always harder, in any organization.

Journal: Much of the current competition between the university and state colleges seems to be in the field of extension, and the Extended University. Does university and state college interest in this area represent a change in educational philosophy, or is it an avenue of growth which both segments see open to them?

Hitch: I think there is a feeling that higher education has been concentrating too much on the 18-24 year-old full-time students and that it ought to make its facilities more widely available to those outside that range — to those who can't come full-time and to those who can't come and live on a campus. I think this is a very general national and international movement. You can see it in England, in Japan and in other places. We feel that way, the state colleges feel that way, and I think there is a role here for both of us. It's going to have to be coordinated, and I think it may be a tricky problem of coordination because we're both involved in exploring programs of this kind with the upper division and at the master's level.

But I do not think that this is going to be in a quantitative way a very big thing over the next decade. It's going to involve a lot of part-time students. But if you look at the FTE's involved, I'm sure there will be a rather small fraction of total enrollment in both cases.

Journal: Is the Coordinating Council beginning to provide some cooperation in this area?

Hitch: Yes, yes they are. They have a study going on. I think it's needed; I just hope that they don't coordinate too much too soon. We need some experimentation even if there's an overlapping in experimentation. But they are becoming very interested in it, and they must.

Journal: It seems that much of the criticism of the Master Plan by legislators and others is focused on the Coordinating Council and its apparent failures in coordinating and planning. From your recent statements, however, it appears that you feel that voluntary coordination is still a valid concept.

Hitch: I do, and I think that the Coordinating Council has been somewhat more effective than its critics recognize. It's been quite effective in a negative sense; it has been quite effective in stopping programs, limiting programs. If they take a negative attitude toward something, its very difficult to get funding for it. For example, they've been very effective, I think, in controlling the proliferation of campuses. I think their study of engineering in all the segments was quite effective in dampening down unwarranted growth of expensive engineering schools.

Where they have fallen down completely is in relation to the budget. They've made several attempts to get into that business, and they've never developed any effective technique for doing it. I think it's less a matter of their authority than the exigencies of the budget cycle. The fact that there are so many reviews already makes it just awfully hard to fit in another one.

Journal: Why is it that the Governor has been able in the last couple of years, to deal so freely with the financing of higher education?

Hitch: I think this is a power that the Governor has in California. The Governor has complete control of the budget unless he's overriden, and, as you know, no Governor has been overriden on anything since 1946.

Journal: Yet the Governor also has to work within a political climate which educators seem to have been unable to influence positively in the last few years.

Hitch: Well, there are some other areas where I think the Governor has exercised his negative power. Higher education isn't the only one. For example, the Legislature found it pretty difficult to deal with him on reapportionment.

Journal: There's been a great deal of concern expressed for the quality of education under recent state budgets. What do you think have been the consequences for the University?

Hitch: Well, I think there's no question that we've had an erosion in quality. I think it's something that happens with a time lag and that makes it difficult to evaluate. It's perfectly apparent to our people on the firing line, hiring and retraining faculty, that we just haven't had the guns to bring in the best people in the last couple of years in the manner in which we did before. This can become quite serious if it lasts for many years. It's one of those things that doesn't make a lot of difference the first year because so much of the faculty is continuing, but in the long run this could be terribly serious.

I think our financial problems are not going to go away very quickly. I am certainly hopeful that we can do something about faculty salaries this year to begin to catch up, but whether we can get more than the Governor's 7½ percent increase, I don't know.

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first suggested to the council that it launch a study of the Master Plan, the idea was strongly opposed by the University of California on the grounds that the Legislature had already begun its study and there was no need for the council to duplicate the legislative committee's work. Nevertheless, the council voted on January 4, 1971, to set up "a broadly representative, select Master Plan committee to reconsider and update the 1960 Master Plan." The seventeen committee members were appointed in May, after the nominees had been screened by the Governor's office, but there was no immediate effort to inform them of their duties.

At their first meeting on June 29, 1971, the committee was told that it was to "examine the policies and issues of the Master Plan of 1960 in light of new circumstances, developments, and the needs of higher education in the 1970's" but given no guidelines as to how it was to do so. It was not until two months later that the committee began to try to determine what exactly it was expected to do. By that time it had obtained an executive director, Dr. Durward Long, who is on leave from his post as Vice Chancellor of the University of Wisconsin Center System, and it had also learned that it would receive little more in the way of staff assistance from the council.

In general, it was agreed by the members that they should examine the assumptions and philosophy of the Master Plan, the manner in which they have been applied, and how it has worked. It was also agreed that the committee would not undertake any major data collection efforts or special studies of its own, nor would it attempt to set up a technical committee apparatus such as that employed by the Master Plan Survey Team in 1959. Unlike the Joint Committee on the Master Plan, which has relied heavily on the views and judgements of others, the select committee expects to depend more upon the views and judgements of its own members.

Meeting once a month during the fall, the select committee adopted a work plan and divided itself into three subcommittees dealing with: (1) the financing of higher education, cost-benefit issues and the state's manpower needs; (2) admission policies, the distribution of enrollment, student views as to their educational needs, and articulation problems; and (3) nondegree programs and new forms of higher education. A fourth committee may be formed in March or April to deal with questions pertaining to organization and governance of higher education.

According to Long, the committee members have been eager to attack the basic issues before them. Long has seen to it that each subcommittee has received as much material on its subject as he believes the members can absorb, and he has also seen to it that the subcommittees and full committees hear directly from experts who can contribute substantially to their understanding of the facts and issues in each area. In addition, Long has brought more than 60 students before one of the subcommittees to present their views as individuals with various types of backgrounds. Several student organizations have been asked to submit position papers on the issues before the select committee, and Long expects to make a similar request of the faculty senates.

Despite its reluctance to engage in any special studies of its own, the select committee has agreed to establish a task force to look at the educational and economic advantages and disadvantages of assigning all lower division students to the community colleges. Additionally, the committee has asked Alexander W. Astin, an expert on the subject of access to higher education, to prepare an admissions model with which the committee can test alternative admission policies. It has also made arrangements with Ernest G. Palola of the Center for Research and Development in Higher Education for the preparation of a planning model.

So far only one of the three subcommittees has submitted recommendations to the full committee. The subcommittee on finance and cost-benefit issues submitted eight recommendations in mid-February calling for maintenance of a tuition-free policy for the community colleges; higher tuition for the University and state colleges; preparation of a ten-year enrollment and capital outlay projection by the Coordinating Council, state funding for year-round operation "for all campuses which face deficits of space," and contracts with private institutions to use currently available facilities for graduate and professional training.

Outlook

Apart from these recommendations it is difficult to predict what the select committee will finally recommend in the areas which it has under study. When it was first formed it appeared that the committee would be very cautious and that it would propose nothing which would seriously disturb the existing Master Plan arrangements. Now, however, it is apparent that, as Long says, the select committee "mavericks" who may want to challenge the manner in which the philosophy behind the Master Plan has been implemented. The more the select committee members learn about higher education, Long says, the more eager they become to deal with the significant issues.

Both Long and Callan express their dismay over the lack of useful current data about California's system of higher education, and both suggest that their final reports are likely to address that problem. Otherwise, they are not willing to predict what their committees will do. Each knows his committee has a long way to go in a short time, and it is far from clear that either can be expected, with limited time and resources, and in the absence of any apparent demand for change, to produce a report which will have a significant impact on higher education in California in the 1970's.

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State Supreme Court Rules Death Penalty Unconstitutional in California

In one swift action the California Supreme Court has accomplished what the Legislature has considered and rejected year after year: it has abolished the death penalty in California. In a 6-1 decision announced on February 18th, the court ruled that the execution of criminals is both cruel and unusual punishment and is therefore unconstitutional in this state. Putting criminals to death "degrades and dehumanizes all who participate," said the court. "It is unnecessary to any legitimate goal of the state and is incompatible with the dignity of man and the judicial process."

The decision was made in the case of Robert Page Anderson, who had been convicted of murder and whose death penalty judgment was before the court on automatic appeal, as provided by the California Constitution in all capital cases. In reversing the trial court's decision, as well as its own position in earlier cases, the Supreme Court ordered that Anderson's sentence be changed to life imprisonment and made the ruling applicable to all persons who have been similarly sentenced. Including Anderson, there were 106 prisoners awaiting execution when the decision was announced.

Cruel or Unusual

The decision, which was written by Chief Justice Donald R. Wright, deals with that section of the California Constitution which prohibits "cruel or unusual" punishment (and pointedly refrains from considering the Eighth Amendment to the U.S. Constitution, which prohibits "cruel *and* unusual" punishment). The question before it, said the court, was whether the death penalty, when judged by contemporary standards "is either cruel or has become an unusual punishment." The court's answer was that it is both.

All of the arguments which the court used are familiar to those who have followed the controversy over the death penalty as it has evolved. As to cruelty, the court declared that not only is actual execution cruel, but that the lengthy imprisonment prior to execution constitutes psychological torture for the prisoner. The process of imprisonment and execution which ultimately follows pronouncement of the death sentence has become, in the state court's opinion, the "lingering death" which the U.S. Supreme Court has conceded to be "cruel" in the constitutional sense.

As to "unusual punishment", the California court applied the U.S. Supreme Court's measure of acceptable punishment under the Eighth Amendment: "the evolving standards of decency that mark the progress of a maturing society." Noting that there has been a steady, nationwide decrease in the number of executions from a high of 199 in 1935 to 2 in 1967, despite population growth and despite the fact that it is sanctioned in 41 states, the court concluded that "capital punishment is unacceptable to society today."

The one dissenting opinion, written by Justice McComb, argued against the majority view on four counts: first, the question is now pending before the U.S. Supreme Court, making a decision by the California court premature at best; second, the California Supreme Court has held the death penalty to be constitutional in a long series of earlier cases, including 11 decisions in the past three and a half years; third, the death penalty serves a useful purpose as a deterrent to murder; and, fourth, since the death penalty has previously been held constitutional it is the duty of the Legislature or the electorate to decide whether it is to be used or not.

Reaction

McComb's arguments did not sway his colleagues, but they did find support among state officials who continue to favor the death penalty. Immediately following announcement of the decision, Governor Reagan issued a statement charging that "this decision makes a mockery of the constitutional process involved in establishing the laws of California." According to the Governor, an overwhelming majority of the people favor the death penalty. (The most recent Field Poll indicated that 58 percent of Californians favor retaining the death penalty.) This and the fact that the Legislature has had the issue before it 25 times since 1933 and has always refused to abolish the death penalty, means, said Reagan, that "the court has placed itself above the will of the people." The Governor directed Attorney General Evelle J. Younger to request a rehearing on the matter, saying that if the court refuses to grant this request, "the people should express their opinion through a constitutional amendment."

Younger, who also issued a statement attacking the decision, said he would petition the court for a rehearing and, if the rehearing is denied, appeal that decision to the U.S. Supreme Court.

Similar cases are pending before the U.S. Supreme Court, but the fact that the present decision was based on the California Constitution means that even if the U.S. court finds the death penalty constitutional that will not reverse the California decision. An amendment to the California Constitution to permit the death penalty would be necessary to overthrow the court's decision. If, on the other hand, the U.S. Supreme Court should also find the death penalty unconstitutional under the federal constitution, an amendment to the California Constitution would have no effect.

On the same day the decision was announced, Senator George Deukmejian introduced a proposed state constitutional amendment to provide the Legislature with specific constitutional authority to prescribe capital punishment for certain crimes. The Deukmejian measure, SCA 13, inserts the following language into the California Constitution: "Nothing in this constitution shall be construed as limiting the power of the Legislature to provide for the death penalty as a form of penalty for criminal offenses."

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The Fight Against Water Pollution -- A Sellout or a Realistic Attack on One of California's Toughest Problems?

"It is extremely important for California to have strong, independent agencies to protect the public's interest in clean, good water and a powerful water pollution control law to back them up. It was our expectation that we would find such a situation. We had heard glowing reports, particularly about the new Porter-Cologne Water Quality Control Act . . . Knowledgeable conservationists had told us that the State Water Resources Control Board, the prime agency responsible for pollution control, was a tough agency . . . Our happy mission was obvious; we were to find out how the agency had managed to be strong and independent, and how the Porter-Cologne Act had avoided being weakened.

"We were startled and amazed by what we found. California's water pollution law was polluted before its passage by special interests, and has been watered down in its enforcement since then. In short, it is a fraud on the public."

The flurry which followed the publication last August of Ralph Nader's report on *Land and Power in California* (see *California Journal*, September 1971, page 281) is all over now; the Raiders have found other pursuits here or have returned to Washington, and their promised follow-up activity has yet to materialize. But the issues which the report raised remain, and among the most important of those issues is the question of whether or not California has made the major strides toward cleaning up and protecting its streams and rivers which it believed it had before the Raiders came along. Clearly, Nader's investigators — in this case a young attorney, Kirk B. Roose, and his wife, Diana Roose — thought not, and they were very direct in saying so.

Unfortunately for their study, the Roose's perspective was somewhat limited by the fact that they were able to examine the impact of the Porter-Cologne Water Quality Act only in its first few months of implementation. Their research ended in the fall of 1970, less than a year after the act had gone into effect. They did not consider this to be a major disadvantage, however, for they were more interested in the act itself than its implementation. They found themselves in substantial disagreement with several of the act's principal provisions and concluded that it could not do what it was intended to do without major changes. In saying this the Raiders also revealed one of their chief biases: that effective environmental protection depends to a great extent upon the enactment of laws which are themselves uncontaminated by compromise, rather than upon the manner in which they are subsequently administered.

Porter-Cologne Act

In 1968 Assemblyman Carley Porter, at the urging of Ron Robie, then staff consultant to Porter's Assembly Water Committee, got the Legislature to back a citizens' study panel to examine California's existing water pollution control laws and to recommend a new law which would strengthen the state's hand in fighting water pollution. The panel was structured in such a way as to co-opt the powerful water interests which had blocked earlier amendments to the water laws. By including all the competing interests on the panel and on its working subcommittees, Porter hoped to give the water interests every opportunity to have their say at the outset, so that they could not later attack the proposed legislation on the ground that they had not been consulted in its drafting.

After nine months of meetings, and public hearings, the panel submitted its report to the Legislature. Largely because of the way in which it had been drafted, the proposed new legislation moved through Legislature with only one significant amendment, which was defeated on the Assembly floor. The new Porter-Cologne Act became law on January 1, 1970.

The new law built upon the old rather than radically changing it. The State Water Resources Control Board and its nine regional water quality control boards were retained, but their membership was changed from seven to nine with the addition of two public members, both of whom must have "special competence in areas related to water quality." The state and regional boards are responsible for long range water quality planning, the development of water quality control policy, the establishment and enforcement of waste discharge requirements, and the administration of state and federal funds for construction of waste treatment plants.

For Nader's Raiders, the trouble with all this started with the composition of the study panel. The members of the panel, says the Nader report, "were more than simply respected by interests; their published backgrounds show that some of them were in fact representatives of special interests." The panel's sub-

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committees, "far from being an objective mechanism for assessing the need for strong pollution controls, were laced with paid representatives of the very interests they were meant to control." Thus the study panel, according to Nader's investigators, "was more than willing to grant concessions to the interests advising it." The water interests wanted four major points said the Raiders, crediting Ron Robie as their source: retention of the basic regional board structure; regulation of the end result of waste disposal, rather than the processing method; an extended appeals procedure for board orders; and use of the word "reasonable" to qualify many of the provisions of the law regarding pollution standards. The fact that all of these points were granted led the Raiders to conclude that "if California were consistent in this pattern of participation in writing laws, burglars would be writing burglarly laws."

In reply to this criticism, Robie, who is now a member of the state board, says "who cares if burglars write their own laws if it results in more effective legislation." The Nader investigators, Robie says, focused too narrowly upon the matter of special interest participation in writing the law and missed the major accomplishments of the panel. Moreover, he argues, there would have been no new law if industry, local government, state agencies, conservationists and others had not been heard and their basic differences compromised in writing the act.

Board Membership

The five-member State Water Resources Control Board includes one attorney and one civil engineer experienced in the fields of water rights and water supply, a civil engineer experienced in sanitary engineering, a member experienced in the field of water quality control, and one member who is not required to have any specific background. The nine-member regional boards are required to have one member "associated with" water supply, conservation and production; one associated with irrigated agriculture; one associated with industrial water use; one associated with municipal government; one associated with county government; one from a "responsible" nongovernmental recreation or or wildlife agency; and three not associated with any of these categories.

These requirements "institutionalize conflict of interest," according to the Rooses. "Although the law includes a 'conflict of interest' provision which requires that a board member disqualify himself from participation in any decision in which he himself is personally interested, the structure of the boards practically guarantees that anyone regulated by a board will be heard by a colleague who may be counted on to 'understand' his problems." The provision of the law which says that each board member "shall represent and act on behalf of all the people" is, they say, "mere boilerplate, public interest rhetoric contradicted by the structural provisions of the law."

The Rooses go on to argue that the so-called category memberships should be abolished and that all state and regional board members should resign unless they have "no interests, financial or otherwise, in pollution organizations." Who this might leave they do not say, but critics of the Nader report suggest, not altogether facetiously, that the only boards acceptable to the Nader people would be composed of civil servants, housewives and bank presidents, and that even they would probably be suspect. Nevertheless, the Roose's argument is not easily dismissed. It is difficult to justify placing representatives of the principal interests to be regulated on the board of the regulatory agency. There may be, indeed, only two arguments in favor of such action: when it is necessary to secure passage of the legislation in the first place, and when the agency subsequently proves to be an effective protector of the public interest despite its composition.

Conflict of Interest

Since the Nader report was published, a different kind of conflict of interest problem has hit the state board. Board chairman Kerry Mulligan has been accused of attempting to bribe a state government official in Hawaii to secure business for a client of his and of serving as a consultant to a water firm doing business with the board. Mulligan has protested his innocence of both charges, but he resigned from the board when asked to do so by the Governor. His resignation is seen by many who follow the board's activities as likely to result in a weakening of the enforcement of the anti-pollution laws, inasmuch as he has been instrumental in seeing that environmentalists are represented on the regional boards and in prodding those boards to take full advantage of their various enforcement powers.

Within a few days of Mulligan's resignation, the board's vice-chairman, Edward F. Dibble, revealed that he also had a possible conflict of interest in that he owned a small engineering business with clients who do business with state water agencies. Unlike Mulligan, Dibble has not offered to resign, but he has agreed to sell his interest in the business. Apparently this has satisfied the Governor, who went to some trouble to explain to the press the difference between the two cases.

Discharge Control

Prior to passage of the Porter-Cologne Act, water users were permitted to discharge wastes into California's waters even before they had received discharge permits. The regional control boards were required to prove dischargers guilty of "pollution" in order to stop them, but the boards had no enforceable definitions of pollution to assist them. The new act states that it is a privilege, rather than a right, to discharge waste into state waters, and the extent to which a discharger may enjoy this privilege is expressly described in "waste discharge requirements".

The discharge requirements implement the water quality control plans set up by regional boards to meet state and federal quality control requirements. The federal regulations require such a plan before local agencies may receive federal funds for municipal treatment plants. The state is now divided into six teen general basin planning areas, and interim plans for all sixteen basins have been accepted by the board and the federal government. Each basin is subdivided in its plan into smaller areas which are delineated in detail and described in terms of three aspects: beneficial uses to be protected, water quality objectives (as measured by physical, chemical and biological indices) appropriate to those uses, and a program of implementation.

Those who want to discharge waste products into the state's waters must first file a report describing the

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nature of the proposed discharge with their regional board. The board then drafts waste discharge requirements to implement the water quality control plan and protect the beneficial uses of the receiving waters. Often the board must decide between several possible levels of protection, because under present policies some uses, such as fish propagation and swimming, require a higher level of pollution control than other uses, such as navigation.

Licensing Pollution

To Nader's investigators, this method of control has turned the regional boards into "pollution license bureaus." Rather than dealing only with the wastes discharged into the water, the boards, they say, should have authority and responsibility to approve or disapprove every waste treatment facility, public and private, throughout the state. The Porter-Cologne Act, they say, retained the old "orange crate theory" — *i.e.*, that you can filter waste through an orange crate as long as the final discharge meets the standards — which makes it impossible for the boards to act before pollution has occured.

Few of California's water experts are convinced of the merits of requiring prior approval of all treatment plants because that would require a considerable increase in control board staffing and would inevitably tend to discourage innovation in waste treatment. Moreover, as has been discovered in other states, once a public agency approves a treatment facility, it becomes a partner in any subsequent violation of anti-pollution laws. Nevertheless, the state board has obtained power to approve those municipal treatment plants for which state and federal funds are provided, and legislation passed last year gives the boards authority to approve certain types of solid waste disposal facilities.

Dischargers or Polluters

Nader's investigators were also critical of much of the language of the Porter-Cologne Act, and were particularly caustic regarding the definitions of water uses, water quality objectives and other terms which are an essential part of the enforcement process. Instead of improving enforcement, they charge, the new definitions represent a "linguistic barrier" to an understanding of the law. Where the law refers to "waste dischargers", the Raiders say it should read "criminal polluters". They were also scornful of the act's definition of pollution as the "alteration of the quality of the waters . . . by waste to a degree which unreasonably affects such waters for beneficial uses."

The Rooses also disapprove of the use throughout the report of the word "reasonable", a qualifier which the water interests insisted upon when the law was written. Those who helped to draft this language argue that the courts would read "reasonable" into the law's provision in any case, but the Rooses argue that the use of the word "reasonable" by the courts is quite different from its use as a guide to the board's discretion.

Enforcement Process

Some of the Nader report's harshest criticism is reserved for the enforcement provisions of the Porter-Cologne Act. Under the law, waste dischargers who are discovered to be violating their discharge requirements are to be ordered by the regional board to cease and desist. If the violation nevertheless continues, the board will take the violation to court for a fine or an injunction against any further discharge of waste until the violation is corrected.

The board's initial order is usually accompanied by a compliance timetable, and it is this practice which the Nader investigators found to be particularly objectionable. While the compliance timetable is in effect, and the offender is meeting the schedule for correcting the violation, the board is barred from seeking a fine or court injunction. "The burden of the polluter's poor planning is put onto the public waters for that time," says the Nader report.

Those who defend the use of timetables argue that the courts would use them if the regional boards did not. They also point out that it would be impossible to close down municipal water treatment plants immediately upon discovery of a discharge violation.

With regard to fines, the law provides that polluters may be fined up to $6,000 per day for intentionally or negligently violating a cease and desist order. In practice the use of fines has been considered by the regional boards as a threat to be used sparingly and only when a polluter has made little or no effort to take corrective action. The Nader report made an explicit point of the fact that at the time of its publication "not one penny had been collected" in pollution fines. It went on to charge that the regional boards "do not intend to fine anyone anyway. As a consequence, corporations, which — as "relatively rational" entities — will stay within legal limits only if exceeding them would cost more, have found that "there is no cost to being caught."

First Fine

In August of 1971 the United States Steel Corporation was required to pay a $15,000 fine for violation of the waste discharge requirements established for its plant near Pittsburg. But this was the first such fine, and the state and regional boards have not hidden the fact that they expect to continue to use fines sparingly. They are more interested in compliance than fines, they say, and are pleased when a violater comes back into compliance with their requirements before the matter goes to trial.

Another enforcement tool which is available to the state and regional boards is the "building ban", which is a cease and desist order containing a restriction on the addition of waste to a community system by one or more new waste dischargers. The state board led the way in using this tool when it issued a building ban for San Francisco and five other cities in 1970. Building bans have now been used approximately 40 times to halt threatened pollution.

The Nader investigators were critical of the building ban device in that it does not allow the boards to control the discharges of those industries which are already using the municipal treatment plants that are threatened with overloading. Thus canneries and other plants which cause overloading problems every year cannot be reached. Moreover, said the Nader report, with a somewhat surprising note of sympathy for its favorite bete noir, the ban unfairly punishes developers who seek new connections to sewer systems that are already guilty of polluting the water.

Recommendations

The Nader report presents several recommendations which it says would materially strengthen exist-

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Fenton, Jack R.	D	51	Los Angeles	1601 W. Beverly Blvd., Montebello 90640	445-8133
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Foran, John F.	D	23	San Francisco	350 McAllister St., San Francisco 94102	445-8253
Garcia, Alex P.	D	40	Los Angeles	257 S. Spring St., Los Angeles 90012	445-7533
Gonsalves, Joe A.	D	66	Los Angeles	12340 E. Firestone Blvd., Norwalk 90650	445-7575
Greene, Bill	D	53	Los Angeles	203 E. Vernon Ave., Los Angeles 90011	445-7498
Greene, Leroy F.	D	3	Sacramento	5738 Marconi Ave., Carmichael 95608	
Hayden, Richard D.	R	22	Santa Clara	525 W. Remington Dr., Sunnyvale 94087	445-8305
Hayes, James A.	R	39	Los Angeles	666 E. Ocean Blvd., Long Beach 90802	445-2778
Johnson, Harvey	D	58	Los Angeles	11001 Valley Mall El Monte 91731	445-7333

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ASSEMBLY (continued)

Name	Party	Dist.	Counties	District Address	Capitol Phone*
Johnson, Ray E.	R	4	Butte, Colusa, Glenn, Lake, Sutter, Yolo	352 Vallombrosa Ave., Chico 95926	445-8343
Karabian, Walter J.	D	45	Los Angeles	231 W. Garvey, Monterey Park 91754	445-1670
Ketchum, William M.	R	29	Kern, San Luis Obispo, Tulare	1601 H Street Bakersfield 93302	445-7795
Keysor, James	D	41	Los Angeles	1108 Celis Street San Fernando 91340	445-8430
Knox, John T.	D	11	Contra Costa	3803 MacDonald Ave., Richmond 94805	445-7890
LaCoste, Ernest	D	30	San Joaquin, Stanislaus	930 15th Street Modesto 95354	445-8570
Lanterman, Frank	R	47	Los Angeles	106A S. Los Robles, Pasadena 91101	445-8211
Lewis, Jerry	R	73	San Bernardino	3972 N. Waterman Ave., San Bernardino 92404	445-7552
MacDonald, Ken	D	37	Ventura	1903 E. Main St., Ventura 93003	445-7402
MacGillivray, W. Don	R	36	San Luis Obispo	Studio 117 El Paseo, Santa Barbara 93101	445-4843
Maddy, Ken	R	32	Fresno	1221 Van Ness Ave., Fresno 93721	445-7558
McAlister, Alister	D	25	Santa Clara	1577B E. Santa Clara St. San Jose 95116	445-7874
McCarthy, Leo T.	D	19	San Francisco	350 McAllister St., San Francisco 94102	445-2106
Meade, Ken	D	16	Alameda	3923 Grand Ave., Oakland 94610	445-7554
Miller, John J.	D	17	Alameda	6565 Shattuck Ave., Oakland 94609	445-7442
Mobley, Ernest N.	R	33	Fresno, Madera	600 W. Shaw, Fresno 93704	445-8514
Monagan, Bob	R	12	San Joaquin	406 Bank of America Bldg., Stockton 95202	445-8494
Moorhead, Carlos	R	43	Los Angeles	420 N. Brand Blvd., Glendale 91203	445-8364
Moretti, Bob	D	42	Los Angeles	12444 Victory Blvd., No. Hollywood 91606	445-8424
Murphy, Frank, Jr.	R	31	Merced, San Benito, Santa Clara	P.O. Box 634, Santa Cruz 95060	445-8496
Pierson, David C.	D	65	Los Angeles	701 W. Manchester Blvd., Inglewood 90301	445-3134
Porter, Carley V.	D	38	Los Angeles	9706 E. Compton Blvd., Bellflower 90706	445-6047
Powers, Walter W.	D	8	Sacramento	P.O. Box 15265 Sacramento 95813	445-7464
Priolo, Paul	R	60	Los Angeles	12121 Wilshire Blvd., Los Angeles 90025	445-8366
Quimby, John P.	D	72	San Bernardino	227A S. Riverside Ave., Rialto 92376	445-7440
Ralph, Leon	D	55	Los Angeles	1922 E. 103rd St., Los Angeles 90002	445-4011
Russell, Newton R.	R	62	Los Angeles	3507 W. Magnolia Blvd., Burbank 91505	445-8292
Ryan, Leo J.	D	27	San Mateo	308 Linden Ave., So. San Francisco 94080	445-8020
Schabarum, Peter F.	R	49	Los Angeles	573 S. Barranca, Covina 91722	445-9234
Seeley, Raymond T.	R	75	Imperial, Riverside	247 E. Tahquitz-McCallum Way Palm Springs 92262	445-7931
Sieroty, Alan	D	59	Los Angeles	449 S. Beverly Dr., Beverly Hills 90212	445-7928
Stacey, Kent H.	R	28	Kern	1415 18th St., Bakersfield 93301	445-8490
Stull, John	R	80	San Diego	714 - 2nd St., Encinitas 92024	445-7444
Thomas, Vincent	D	68	Los Angeles	508 Pacific Trades Center San Pedro 90731	445-7906
Townsend, L. E.	D	67	Los Angeles	15225 S. Western Ave., Gardena 90249	445-7278
Vasconcellos, John	D	24	Santa Clara	100 W. Rincon Ave., Campbell 95008	445-4253
Wakefield, Floyd L.	R	52	Los Angeles	7340 E. Florence Ave., Downey 90240	445-7852
Warren, Charles	D	56	Los Angeles	1411 W. Olympic Blvd., Los Angeles 90015	445-7644
Waxman, Henry A.	D	61	Los Angeles	5208 W. Pico Blvd., Los Angeles 90019	445-7511
Bob Wilson	D	76	San Diego		445-6161
Wood, Bob	R	34	Monterey	32 E. Alisal, Salinas 93901	445-7486
Z'berg, Edwin L.	D	9	Sacramento	2405 15th St., Sacramento 95818	445-8368

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Senate Standing Committees

AGRICULTURE — (3D, 4R)

Way (Chairman)	Marler
Zenovich (Vice Chairman)	Richardson
Beilenson	Stiern
Coombs	

Consultant: Paul Huff

BUSINESS AND PROFESSIONS — (4D, 5R)

Deukmejian (Chairman)	Marks
Whetmore (Vice Chairman)	Schrade
Beilenson	Short
Cologne	Song
Dymally	

Consultant: Jim Cathcart

EDUCATION — (5D, 6R)

Rodda (Chairman)	Marler
Richardson (Vice Chairman)	Moscone
Burgener	Stiern
Dymally	Carpenter
Grunsky	Alquist
Harmer	

Consultant: Gerald Hayward

ELECTIONS AND REAPPORTIONMENT — (5D, 4R)

Dymally (Chairman)	Petris
Harmer (Vice Chairman)	Zenovich
Moscone	Burgener
Nejedly	Alquist
Carpenter	

Consultant: Alan Rosin

FINANCE — (8D, 5R)

Collier (Chairman)	Rodda
Teale (Vice Chairman)	Short
Alquist	Stiern
Grunsky	Way
Holmdahl	Beilenson
Lagomarsino	Cusanovich
Marler	

Consultant: Robert Hampton

GOVERNMENTAL ORGANIZATION — (7D, 6R)

Dills (Chairman)	Wedworth
Kennick (Vice Chairman)	Deukmejian
Harmer	Schrade
Collier	Way
Stevens	Mills
Teale	Grunsky
Walsh	

Consultant: Chuck Baldwin

HEALTH AND WELFARE — (6D, 5R)

Beilenson (Chairman)	Whetmore
Cusanovich (Vice Chairman)	Dills
Kennick	Song
Marks	Dymally
Schrade	Roberti
Behr	

Consultant: Bill Barnaby

INDUSTRIAL RELATIONS — (4D, 3R)

Short (Chairman)	Rodda
Burgener (Vice Chairman)	Whetmore
Richardson	Carrell
Moscone	

Consultant: Bill Montgomery

INSURANCE AND FINANCIAL INSTITUTIONS — (5D, 4R)

Bradley (Chairman)	Short
Wedworth (Vice Chairman)	Stevens
Carpenter	Walsh
Collier	Zenovich
Harmer	

Consultant: Robert Keller

JUDICIARY — (7D, 6R)

Song (Chairman)	Holmdahl
Petris (Vice Chairman)	Lagomarsino
Bradley	Moscone
Cologne	Roberti
Deukmejian	Stevens
Gregorio	Zenovich
Grunsky	

Consultant: Bion Gregory

LOCAL GOVERNMENT — (3D, 6R)

Marks (Chairman)	Burgener
Gregorio (Vice Chairman)	Coombs
Nejedly	Song
Behr	Petris
Bradley	

Consultant: Dick Whittaker

NATURAL RESOURCES AND WILDLIFE — (3D, 6R)

Nejedly (Chairman)	Behr
Lagomarsino (Vice Chairman)	Carpenter
Richardson	Cologne
Dills	Wedworth
	Gregorio

Consultant: Bob Testa

PUBLIC UTILITIES AND CORPORATIONS — (5D, 2R)

Alquist (Chairman)	Dills
Behr (Vice Chairman)	Gregorio
Cusanovich	Mills
Walsh	

Consultant: Steve Larson

REVENUE AND TAXATION — (5D, 4R)

Stiern (Chairman)	Deukmejian
Holmdahl (Vice Chairman)	Bradley
Carrell	Wedworth
Petris	Burgener
Coombs	

Consultant: Don Collin

RULES — (3D, 2R)

Mills (Chairman)	Lagomarsino
Stevens (Vice Chairman)	Teale
Kennick	

Exec. Officer: John Williamson

TRANSPORTATION — (5D, 4R)

Carrell (Chairman)	Whetmore
Schrade (Vice Chairman)	Marler
Kennick	Holmdahl
Marks	Roberti
Walsh	

Consultant: Lloyd Lapham

WATER RESOURCES — (2D, 5R)

Cologne (Chairman)	Cusanovich
Coombs (Vice Chairman)	Roberti
Nejedly	Way
	Zenovich

Consultant: Bill Toomey

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Assembly Standing Committees

AGRICULTURE — (5D, 9R)

Briggs (Chairman)	Ketchum
LaCoste (Vice Chairman)	Mobley
Belotti	Porter
Duffy	*Powers*
Gonsalves	Stull
Johnson, Harvey	Seeley
Johnson, Ray	Wood

Consultant: Timothy Leathers

COMMERCE AND PUBLIC UTILITIES — (5D, 4R)

Powers (Chairman)	Fong
Stacey (Vice Chairman)	Greene, Leroy
Brophy	Ryan
Campbell	Townsend
Conrad	

Consultant: Steve Spellman

CONSTITUTIONAL AMENDMENTS — (5D, 4R)

Garcia (Chairman)	Knox
MacGillivray (Vice Chairman)	McAlister
Beverly	Pierson
Burton	Schabarum
	Wakefield

Consultant: Sam Farr

CRIMINAL JUSTICE — (5D, 4R)

Beverly (Chairman)	Moorhead
Miller (Vice Chairman)	*Murphy*
Brathwaite	Sieroty
Biddle	Waxman
Crown	

Consultant: Tom Carroll

EDUCATION — (11D, 8R)

Greene, Leroy (Chairman)	Greene, Bill
Chacon (Vice Chairman)	Keysor
Arnett	Lewis
Burke	Maddy
Cline	McAlister
Collier	Meade
Cory	Russell
Dent	Ryan
Dunlap	Vasconcellos
Fong	

Consultant: James Murdoch

EFFICIENCY AND COST CONTROL — (3D, 3R)

Cullen (Chairman)	Mobley
Schabarum (Vice Chairman)	Seeley
Cory	Thomas

Consultant: John Billett

ELECTION AND REAPPORTIONMENT — (9D, 6R)

Waxman (Chairman)	Karabian
Lewis (Vice Chairman)	Monagan
Briggs	Moorhead
Brown	Moretti
Cory	Priolo
Crown	Ralph
Fenton	Russell
Garcia	

Consultant: Michael Berman

EMPLOYMENT AND PUBLIC EMPLOYEES — (5D, 5R)

Hayes (Chairman)	Dent
MacDonald (Vice Chairman)	Greene, Leroy
Arnett	Ketchum
Biddle	Meade
Deddeh	Z'berg

Consultant: Martin Dyer

ENVIRONMENTAL QUALITY — (4D, 3R)

Fong (Chairman)	MacGillivray
Wood (Vice Chairman)	Meade
Brown	Vasconcellos

Consultant: Mike Gagan — Johnson, R.

FINANCE AND INSURANCE — (11D, 8R)

Pierson (Chairman)	Karabian
Foran (Vice Chairman)	Knox
Beverly	Moorhead
Brathwaite	Powers
Briggs	Priolo
Campbell	Ralph
Deddeh	Russell
Duffy	*Townsend*
Fenton	Waxman
Hayden	

Consultant: Ed Levy

GOVERNMENT ADMINISTRATION — (3D, 5R)

Russell (Chairman)	Miller
Arnett (Vice Chairman)	Schabarum
Knox	Seeley
LaCoste	Wakefield

Consultant: Roger Duerksen

GOVERNMENTAL ORGANIZATION — (8D, 7R)

Ralph (Chairman)	Greene, Leroy
Keysor (Vice Chairman)	Hayes
Badham	Karabian
Campbell	MacDonald
Cline	Priolo
Cullen	Stacey
Duffy	Townsend
Fenton	

Consultant: Parke Terry

HEALTH — (5D, 4R)

Campbell (Chairman)	Hayden
Townsend (Vice Chairman)	Pierson
Brathwaite	Stacey
Davis	Waxman
Duffy	

Consultant: Ken Wagstaff

INTERGOVERNMENTAL RELATIONS — (6D, 4R)

Johnson, Harvey (Chairman)	Cullen
Conrad (Vice Chairman)	Johnson, Ray
Bee	Monagan
Chappie	Moretti
Crown	Thomas

Consultant: Tim Howe

JUDICIARY — (7D, 4R)

Warren (Chairman)	Karabian
McAlister (Vice Chairman)	Maddy
Fenton	Moorhead
Foran	Murphy
Hayes	Z'berg
Johnson, Harvey	

Consultant: Herb Nobriga

LABOR RELATIONS — (5D, 4R)

McCarthy (Chairman)	Gonsalves
Ketchum (Vice Chairman)	MacGillivray
Biddle	McAlister
Chacon	Wakefield
Garcia	

Consultant: John Delury

LOCAL GOVERNMENT — (5D, 5R)

Knox (Chairman)	LaCoste
MacDonald (Vice Chairman)	MacDonald
Beverly	Porter
Chappie	Quimby
Hayden	Seeley

Consultant: Tom Willoughby

NATURAL RESOURCES AND CONSERVATION — (9D, 4R)

Z'berg (Chairman)	Keysor
Dent (Vice Chairman)	LaCoste
Barnes	Sieroty
Belotti	Thomas
Chacon	Warren
Davis	Wood
Dunlap	

Consultant Jim Pardau

PLANNING AND LAND USE — (4D, 3R)

Priolo (Chairman)	McCarthy
Chappie (Vice Chairman)	Warren
Bagley	Z'berg
Brown	

Consultant: Emilio Varanini

RETIREMENT — (1D, 6R)

Barnes (Chairman)	Conrad
Belotti (Vice Chairman)	Dent
Bee	Lewis
Brophy	

Consultant: Dave Cox

REVENUE AND TAXATION — (10D, 7R)

Gonsalves (Chairman)	Greene, Bill
Meade (Vice Chairman)	McCarthy
Badham	*Mobley*
Bagley	Murphy
Briggs	Quimby
Cline	Sieroty
Cory	Stull
Deddeh	Thomas
Dunlap	

Consultant: Dave Doerr

RULES — (4D, 3R)

Burton (Chairman)	Quimby
Johnson, R. (Vice Chairman)	Ryan
Burke	Townsend
Mobley	

Adm. Officer: Lou Angelo

TRANSPORTATION — (8D, 7R)

Deddeh (Chairman)	Bee
Hayden (Vice Chairman)	MacGillivray
Burke	McCarthy
Foran	Collier
Garcia	Schabarum
Gonsalves	Sieroty
Keysor	Wood
Lanterman	

Consultant: Sid McCausland

URBAN DEVELOPMENT AND HOUSING — (5D, 4R)

Brathwaite (Chairman)	*Fong*
Maddy (Vice Chairman)	Greene, Bill
Brophy	Murphy
Chacon	Ralph
Cline	

Consultant: George Beattie

WATER — (5D, 4R)

Porter (Chairman)	Johnson, Harvey
Quimby (Vice Chairman)	Lanterman
Badham	Monagan
Cullen	Stacey
Davis	

Consultant: Mickey Allen

WAYS AND MEANS — (12D, 9R)

Brown (Chairman)	Dunlap
Lanterman (Vice Chairman)	*Foran*
Badham	Hayes
Bagley	MacDonald
Barnes	Miller
Belotti	*Porter*
Burton	Ryan
Chappie	Stull
Collier	Vasconcellos
Crown	Warren
Davis	

Consultant: Rudy Nothenberg

WELFARE — (5D, 4R)

Bagley (Chairman)	Maddy
Greene, Bill (Vice Chairman)	McCarthy
Arnett	Miller
Biddle	Pierson
Burton	

Consultant: Bob Rosenberg

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ing law and enforcement practices. Among these are: the publication of all cease and desist orders so that the polluters may become known to the public; the publication of a listing of each region's worst polluters; an automatic building ban for municipalities which threaten to violate their discharge limits; and the levying of a tax on effluents graded according to the volume and toxicity of discharge.

None of these recommendations has proved to be popular with either the state or regional boards, however. For a short period the San Francisco Board did list the region's "top polluters", but it has since been discouraged from doing so by the state board. The state board has backed legislation to require waste dischargers to pay an annual fee for the privilege, but the board prefers to call it a "water quality protection fee" rather than an "effluent charge," and is concerned that payment of a graduated fee would give a polluter a feeling that he had a right to continue polluting as long as he pays for it.

Agriculture Exempted

Agriculture in all its forms accounts for approximately 85 percent of the state's total water use and certainly a correspondingly large share of waste water. Because of the heavy use of water for irrigation, agricultural waste water can be a major carrier of salts, pesticides and fertilizers . Good irrigation practices minimize the problem of mineral content, and increasingly stringent controls on the use of non-degradable pesticides are reducing that problem. That leaves fertilizers as the major continuing element of agricultural pollution, and there seems to be little prospect that the heavy use of nitrogen, phosphates and potash will soon cease to be an important factor in California's high crop yields.

Yet agricultural pollution is acknowledged to be a serious problem, particularly when the high nitrogen content of surface ground and waters contaminates drinking water sources. Thus Nader's investigators reported that when they looked into the operations of the Central Valley board they expected to find "expertise in agricultural pollution and vigorous efforts to abate the largest pollution problem in the region." Instead, they said, they found that the board was attempting to regulate only chicken and dairy farms and had not established waste discharge requirements for any of the agricultural water users in the region.

The principal reason for this is that the Porter-Cologne Act "expressly authorize(s) regional boards to waive the filing of reports or the prescription of waste discharge requirements" for farmers "where such waiver is not against the public interest." California's water quality control policies have always been, and continue to be "pipe oriented", and the state has never begun to deal effectively with pollution from agricultural sources. The state board has an agricultural waste water advisory committee which is currently studying the problem, but it is probable that the majority of its members agree with one who has stated that in his opinion agricultural wastes are not as dangerous to health or to "beneficial uses" as are those of municipalities and other industries. The state's failure to deal with agricultural pollution and the continued exemption for farmers clearly suggests the power of "agri-business" in California and poses a major challenge for those who would close this large loophole.

Water Quality Data

Whatever the merits of the Nader report's attack upon various provisions of California's pollution control law and the manner in which it was written, the ultimate test is to be found in whether or not there is substantial and continuing improvement in the quality of the water in the state's lakes, streams and estuaries. If there is, then there would seem to be little cause for concern over the criticisms levied by Nader's investigators. If there is not, no amount of explanation and justification for the present system will be accepted.

Unfortunately, however, there is very little information to date with which the public can judge for itself how much, if any, progress is being made to reduce pollution. The Porter-Cologne Act requires the state and regional boards, in cooperation with other state agencies, to prepare and implement a statewide water quality information, storage, and retrieval system which will provide the essential data base, but the problems in meeting this mandate have proven to be exceptionally difficult. The boards themselves have been more concerned with day-to-day enforcement problems than with information collection, while those other agencies which do collect water data all seem to be looking for different things. Moreover, there are very complex technical problems to be solved, first in measuring pollution and then in collecting and assembling the data in a meaningful way. Only very recently, for example, has a method been devised for measuring the natural as opposed to the man-made pollution in fresh water.

Nevertheless, the Nader investigators were understandably disappointed in the unavailability of useful and reliable data on the output of waste water and the levels of pollution in the various regions. To remedy this situation, the federal government has begun gathering and coordinating its data, and the state board is about to sign a $440,000 contract to obtain a data gathering, storage, and retrieval system to serve state agencies and, it is hoped, to be coordinated with the federal system.

Issues Spotlighted

In conclusion, it is evident thast Nader's investigators brought many of the state's water quality problems into the public spotlight at a time when nearly all who might be concerned about the issue seemed totally complacent. They noted quite accurately that very little has been done about agricultural pollution and the lack of useful data on the quality of the state's waters. They also pointed out real, if not necessarily overwhelming, weaknesses in the structure of the control boards and in their enforcement procedures.

On the other hand, they missed some serious problems — *e.g.*, waste discharges from boats and the need for greater coordination of community sewer systems. Nor did they deal directly with the state's achievements in this field in a manner which would have permitted readers of the report to feel that they were getting a full and fair analysis of both the strengths and weaknesses of the existing system. Water quality control in California can benefit from a fresh, in-depth examination; the Nader report went only part way in meeting the need.

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Population Forecasters Foresee a Drop in Public School Enrollment; Advisory Council Calls for Population Controls

According to figures released in February by the Population Research Unit of the Department of Finance, California's public school enrollment, which failed to increase last year for the first time in over two decades, will continue a slow decline through 1979. The reduction will occur at both the elementary and the secondary levels and will total nearly 250,000 pupils by 1980.

The state's population experts are themselves surprised at the figures, which reflect, in part, an apparent decline in births in 1971, following a three-year growth in the birth rate between 1967 and 1970. The population forecasters had expected the birth rate to continue a modest rise or to at least hold steady, but were forced to revise their thinking when the 1971 figures indicated a shift back to smaller families. The other major factor

REPORTED AND PROJECTED CALIFORNIA PUBLIC SCHOOL ENROLLMENT, 1960-1981

	Kindergarten through Eighth Grade	Grades Nine through Twelve	Totals
Reported:			
1960	2,519,241	785,244	3,304,485
1970	3,168,439	1,288,886	4,457,325
1971	3,107,862	1,316,402	4,424,264
Projected:			
1972	3,054,100	1,331,500	4,385,600
1973	3,004,200	1,347,100	4,351,300
1974	2,963,800	1,361,400	4,325,200
1975	2,930,600	1,371,900	4,302,500
1976	2,888,500	1,379,000	4,267,400
1977	2,866,500	1,373,700	4,240,200
1978	2,865,600	1,356,200	4,221,800
1979	2,898,600	1,314,700	4,213,300
1980	2,960,900	1,262,100	4,223,000
1981	3,034,800	1,220,100	4,254,900

behind the projections is the estimate of net migration into California (the excess of new residents over those leaving the state). State officials believe that there will be a return to the level of net migration of the late 1960's, which at roughly 125,000 per year was well below that of the 1950's and early 1960's but still higher than the current level of 25,000 per year.

If these figures prove to be correct, school districts throughout the state are going to be faced with a series of problems which a number of districts received a first taste of this year. Annual district budgets, which in large part reflect estimated state and federal subventions based on enrollment, will no longer have that important growth factor. Many districts may have to release experienced teachers who, together with many newly credentialed graduates of the state colleges and University, will find it increasingly difficult to find teaching jobs. These districts may also find their operating costs rising if they are forced to keep open schools which cannot be filled to capacity.

It is also possible that the projected decline in enrollment could have an impact on such programs as the Teachers Retirement System which are indirectly related to enrollment figures. Last year's teachers' retirement legislation (AB 543), which provided an increase in state funding as well as an increase in benefits, was based upon a series of projections which included a projected two percent annual increase in retirement system membership. A sharp reduction in the hiring of new teachers (which is now down to about two percent per year) could cause a funding problem, unless it is offset by other factors, such as an increase in salary growth rates and a greater than expected return on investments.

On the positive side, many districts will find that increases in local property tax revenues which result from rising assessments will not be eaten up by enrollment growth. If the Serrano decision results in enactment of a statewide property tax for the schools, all districts will benefit from this change. In addition, state support, unless it is allowed to fall with the enrollment figures (as it will under the present apportionment system), can be increased in amount per pupil without a corresponding growth in the total amount of state funding required.

College Enrollment

The decline in enrollment in the public schools is likely soon to reach the state's public and private institutions of higher education, as well. There is, however, no single set of projections for enrollment in higher education which will show this. Each segment (the University, state colleges, community colleges and private institutions) prepares its own figures, and those figures are heavily influenced by administrative decisions concerning campus capacity, support funds, and admission standards. Thus there is no present estimate of total "demand" for higher education among Californians, nor any projection of planned enrollment among institutions of all kinds.

Although the Coordinating Council for Higher Education periodically reports long-range enrollment projections, these reflect no more than a rough consolidation of the separate plans of the individual segments. The council has shown little interest in attempting to measure and project total demand for higher education in California. A staff report to the council at its meeting in early February presented national enrollment estimates prepared by the Carnegie Commission on Higher Education to support a recommendation that the growth of graduate and professional programs be slowed. The Carnegie figures indicate that enrollment

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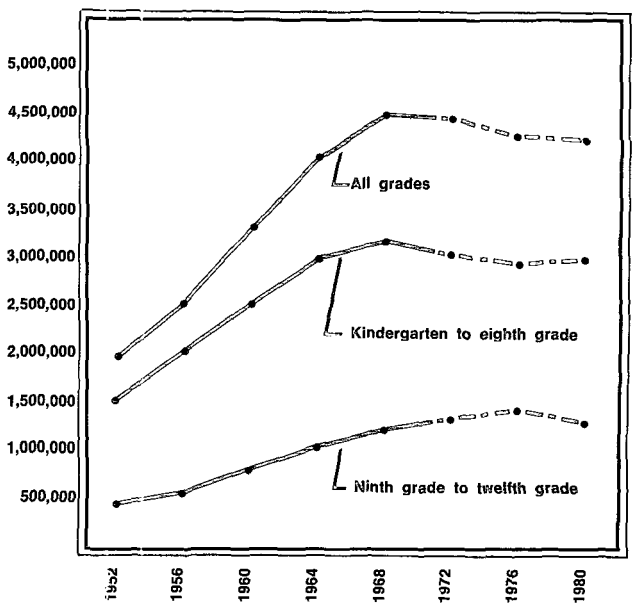
in higher education may cease to grow between 1980 and 1990 for the nation as a whole, and this is assumed to be a possibility for California as well.

Legislative Report

Shortly before the Department of Finance released its latest set of school enrollment projections, the Assembly's Science and Technology Advisory Council issued a report which presented a much different view of the population problems confronting the state. The council's report, titled *California Population Problems and State Policy*, emphasized the continuing potential for rapid, unplanned growth, largely as a result of migration from other states and countries, and the need for state planning to limit and shape that growth. In some respects the council's report deals more with the past than the present, inasmuch as California appears to have moved from a period of very rapid population growth into a period of relatively gradual growth. According to council chairman Emil Mrak, however, reports of the slowing of population growth have been over-emphasized by the press. "If not considered carefully," Mrak says, "such reports may lead to the conclusion that the state's population problems will be solved without intervention by government."

In the absence of "deliberate population policies" (that is, policies to limit growth), the council fears that

Reported and Projected Public School Enrollment 1950 - 1980



"California's economic and environmental advantages will inevitably lead us to be the recipient of additional waves of migrants from the less favored parts of the nation and from other countries." Acknowledging that net migration has fallen to a small fraction of what it was during the 1960's, the council argues that there are still "large pools of migration-prone population in urban areas of the country who will flow into the state in response to improved economic conditions," forcing California's population to double in the next twenty years. In view of this possibility, says the council, "the failure of state government to take action constitutes, in itself, a population policy. It commits the state to accept growth trends as the basis for determining future requirements for public facilities and services and for making a wide range of other vital decisions." In the absence of any other policy, state government plays a major role in determining the size and characters of population growth through such programs as the State Water Project, freeway construction, subventions for school construction, and the tax structure.

In urging the state to begin to exercise explicit population management policies, the advisory council advanced a long list of recommendations which, for the most part, are quite general. Among the principal recommendations were these:

- "State government formulate and adopt explicit population growth and distribution policy aimed at achieving desirable long-term social, economic and environmental goals for California.
- "As a part of a coordinated planning effort, all major units of state government . . . be directed to measure: (1) the foreseeable impact of present population trends on the functions under their jurisdiction; and (2) the manner in which their functions influence population trends.
- "State government adopt resources management policies which influence population growth and distribution. In particular, attention should be directed to critical wildlife habitat, urban open space, the coastline and other environmentally significant lands so that options for use and enjoyment of these resources will not be foreclosed to future generations.
- "State government use direct programs, such as water and transportation development, to assist in shaping and containing urban expansion. Growth-inducing projects, such as new universities, airports and major recreation areas should also be located in accordance with state urban policy.
- "The President and the Congress be requested to: (a) examine the impact of the magnitude and character of foreign immigration; (b) bring about a geographical balance of foreign immigrants among the states; (c) provide uniform benefits for public assistance in all parts of the country; (d) use existing programs and appropriate new measures to halt interstate migration from regions of high population export.
- "Restrictions in the administration of the state's Medi-Cal program which increases the patients' stress, violate privacy, delay the medical procedure of abortion or significantly increase its cost be changed.
- "The state establish licensing requirements under which therapeutic abortions may be performed at out-patient clinics."

The council's report was submitted to the Legislature in December but was not made public until mid-February. Despite the sweep of these recommendations, or perhaps because of it, they do not appear to have generated real interest in the Legislature or the administration. The Assembly General Research Committee (Office of Research), to which the report was initially submitted, has no plans at present to follow up on the advisory council's recommendations.

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Reapportionment Alternatives

Does Reapportionment Have to be This Way?

The State of California is going into the 1972 elections with admittedly unconstitutional and temporary Senate, Assembly and congressional districts which were the non-product of more than two years of legislative effort and expense, months of bickering and, finally, a court decision which even the court felt was at best the least destructive of its alternatives. One cannot but wonder if there isn't a better way to carry out the crucial decenial reapportioning of legislative districts. In this issue the *California Journal* attempts to present a framework within which a structured discussion of this question may begin.

To start off the discussion, Dr. Eugene C. Lee, Director of the Institute of Governmental Studies at UC Berkeley and author of *The Challenge of California* and *California Votes,* presents a strong argument as to why the Legislature should not continue to reapportion itself. This is followed by statements from four state officials and one other scholar whom we asked to respond to Professor Lee's piece.

The responses cover a range of views from support for the present system through advocacy of various degrees of change. Assembly Speaker Bob Moretti argues that the present reapportionment process whereby the elected representatives of the people decide is a democratic process which will enable California government to remain responsible to the needs of the public. Assembly Minority Leader Bob Monagan, who battled Moretti on reapportionment all last year, agrees that the Legislature is the proper place for reapportionment. He argues, however, for additional guidelines for fair reapportioning, increased institutional incentives for the Legislature to do the job quickly and well, and creation of a reapportionment commission to act in the event that the Legislature fails.

Lieutenant Governor Ed Reinecke, chairman of the Reapportionment Commission, found by the Supreme Court to be unconstitutional, agrees with Lee that the Legislature should not reapportion itself and argues that a commission like the one he chaired comprised of political leaders other than legislators should be made valid. Professor Robert G. Dixon, a nationally recognized authority on reapportionment and author of *Democratic Representation: Reapportionment in Law and Politics,* agrees with Lee and Reinecke on taking the responsibility from the Legislature, but he suggests a balanced bipartisan commission with a tie breaker. Finally, Senator Arlen Gregorio responds with an argument for his bill (below) which he says will establish a nonpartisan reapportionment commission.

The five responses we have printed, although excellently representing the spectrum of views on how best to reapportion the Legislature, are by no means the only possibilities. Four bills creating reapportionment commissions have been introduced so far this year as well as a resolution calling for the creation of a select committee to study the issue. They are as follows:

SCA 2 (Gregorio) provides for a "nonpartisan" nine member reapportionment commission, appointed by the Secretary of State, with sole responsibility for reapportioning Senate, Assembly and congressional districts. Selected in the year preceding the decennial census, the appointees are to have demonstrated expertise in "fields of study pertinent to the task of defining and identifying communities of interest in the state," and may not be elected or appointed government officials.

Appointees may be rejected within 60 days by the executive committee of any political party with representatives in the Senate, Assembly and Congress. The Supreme Court will make appointments if no agreement is reached. If a majority of the commission fails to agree on a plan within six months of receiving the census, the Secretary of State will appoint a new commission. If no commission reaches agreement, the Supreme Court will divide seats among the four Board of Equalization seats to run at large for the next election. The bill also eliminates the requirement that candidates must be residents of the districts at the time of their election.

ACA 39 (Ketchum) provides for a "nonpartisan" 12-member reapportionment commission composed of superior court judges chosen by lot, six from each of the two major parties. It would have sole responsibility for reapportioning Senate, Assembly and congressional districts. The commission will serve for two years beginning in January of the census year and shall adjust lines on the basis of equality of population, contiguity and representation of communities of interest.

ACA 4 (Russell) provides for a bipartisan reapportionment commission composed of not less than 13 members selected as follows: the caucus of each of the two major parties in each house will pick one (for a total of four); the state central committees of the two major parties will each pick two (for a total of four); minority parties with a minimum percentage of the registered voters in the state may each pick two; and five additional members will be selected by mutual agreement of those selected on a partisan basis.

The commission must be selected by the beginning of the census year or it will be selected by the state Supreme Court. The commission is to consider representation for minority groups, communities of interest, preservation of "the integrity of incumbency," and the integrity of geographic boundaries. If the commission fails to adopt a plan by September of the year following the census, the Supreme Court will be responsible for reapportionment.

ACA 5 (Wakefield) provides for a reapportionment commission composed of 13 members, with five selected

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Reapportionment Alternatives

Scholar Says Legislature Shouldn't Reapportion

At the request of the editors, Professor Eugene C. Lee has combined and slightly modified for presentation here two letters written to the Reapportionment Commission during its brief life in January. It is the hope of Professor Lee and the California Journal *that the issues posed will provoke debate and discussion.*

Once again, as in 1951 and 1961, it is obvious that the public interest has been excluded from the drawing of legislative and congressional district lines. Redistricting, which shapes the entire nature of the political system and is a highly important public decision, has been treated by the Legislature as a private affair. Considerations other than partisan and incumbent advantage have been given short shrift, if considered at all.

The end result is a preponderance — at least two-thirds — of gerrymandered, noncompetitive districts in which incumbents of either party are virtually invulnerable to effective opposition at the ballot box: rarely opposed in their own party primary, and even more rarely defeated — or even seriously challenged — in the general election.

While it would be both impossible and unwise to eliminate all safe seats, present districting has almost completely submerged effective legislative and congressional competition to the detriment of the overall political system. The needs of a healthy democracy, not merely the interest of incumbent legislators, should constitute the basis for districting decisions. The people of California must find a way to introduce the public interest into the redistricting process for the following reasons:

1) The Legislature has concentrated almost exclusively on the question of party balance in the Legislature. While this is a significant factor, it is not the only one. Of equal importance is the character of each individual district. Just as party balance is critical for the Legislature, so the nature of each district is critical for the public. Both are critical to the political health of the state.

2) Many characteristics of a district are politically relevant, for example its ethnic composition or its relationship to local government boundaries. But another consideration is whether the district is competitive between the two parties or safe for but one.

3) Gerrymandered districts — whether intentionally designed to do so or not — frustrate effective citizen control, by divorcing district lines from other community boundaries (city, county, regional). Although one man/one vote requirements pose difficult obstacles for the Legislature in designing districts "in the public interest," they do not require that community boundaries be largely disregarded, or that Assembly, Senate and congressional districts bear no relationship to each other.

4) A preponderance of safe districts weakens the political system by reducing effective citizen information about and control of "their" representatives. Existing evidence indicates that, in contrast to competitive districts, the minority party organization in safe districts becomes steadily weaker, while the voters receive less information about candidates and issues and do not participate in elections in as great numbers.

5) A preponderance of safe districts produces a legislative system resistant to shifts in national and statewide political opinion, making it difficult — even impossible — for a governor or president to mobilize effective majorities of his own party. A large number of safe districts, in short, can lead to stalemate government.

6) While it is true that some previously safe districts have become competitive as a result of California's rapidly growing and shifting population, this is less likely to be the case in the 1970's, when a much more stable population pattern is in prospect.

7) Neither party in the Legislature can disclaim responsibility for the current state of affairs. Both parties have participated in the past in irresponsible districting. Neither party has ever championed the public interest in districting.

8) Party leaders outside the Legislature do not appear to have recognized that the noncompetitive districting system of California weakens the party system, regardless of who is in the majority position. Such leaders should represent interests of their party in addition to those of incumbent legislators, as important as these may be.

9) It is doubtful that the public interest in districting can ever be adequately achieved by the Legislature. Incumbent legislators cannot be expected to do other than seek their own personal advantage in the process of districting, and it is nonsensical to ask them to do so. This is particularly the case with a full-time, relatively well-paid "career" legislature.

10) In any event, even if all of the above arguments are not persuasive, there is yet another: the devastating impact of the districting process on the legislature itself. It is evident that, because redistricting has been the major preoccupation of the state Legislature for nearly two years, the Legislature's main business of establishing public policy in such areas as taxation, welfare, conservation, health, and penal reform has frequently been set aside. Decisions on major issues of public policy have been held captive to the determination of district boundaries. The people of California cannot afford the luxury of having two out of every ten years of a full-time legislature dominated by districting politics.

Other states and other nations (Hawaii, New Jersey and Pennsylvania with their bipartisan districting commissions and Canada and Great Britain with their nonpartisan commissions) have provided alternative ways of promoting the public interest in legislative

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Reapportionment Alternatives

Experts Disagree on Alternatives

ASSEMBLY SPEAKER BOB MORETTI

The determination of what constitutes the "public interest" in reapportionment is highly subjective and very difficult to define. Even for the best intentioned individuals it may be impossible to agree on a workable definition for that term.

It should be understood, then, that reapportionment takes place in the stark partisan reality of each house of the Legislature. Conflict is to be expected, therefore, since unlike most issues with which we must deal, reapportionment is by nature a partisan struggle.

A variety of forces, including public testimony, are involved in shaping the final reapportionment decisions. The process is not a private affair. It is constituted in the form of legislation which must proceed through the normal committee hearing process. Citizens interested sufficiently in the outcome may and do bring significant influence to bear on the final product. The only understanding at the outset is that the majority party in the Legislature (currently Democratic) will not permit the minority party (currently Republican) to accomplish by reapportionment what could not be attained at the ballot box — return of a Republican majority in the Legislature.

It has been suggested that this function might better be performed by some "objective" third party. I disagree that any such party exists. If any entity other than the Legislature constructs a representation plan, the ultimate sanction which is now available to all citizens — the ballot — will be removed. If the people of California are not happy with any actions of their representatives, they may express their displeasure on election day.

The result of this process over the years in California has not prevented us from major legislative accomplishments toward the solution of problems facing all of us each day. While using this system of apportionment, California won the reputation for being in the forefront of state services in every vital area. We have provided water, transportation, education, welfare, recreation, rehabilitation, mental health and many other services for our citizens. Last year the Citizens Conference on State Legislatures ranked California's Legislature as first in the nation.

Finally, there has been a great deal of discussion

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ASSEMBLYMAN BOB MONAGAN
Minority Floor Leader

Mounting criticism of the Legislature has resulted from the failure to enact redistricting legislation. It seems to me, however, that some of the critics seem to want to throw out the baby along with the bathwater, a sentiment I can understand, given the Legislature's conduct in the reapportionment area for the past year. The fact is that redistricting has not been handled responsibly. Consideration of districting legislation was deliberately delayed until the last possible moment; everything was done to keep the issues involved from becoming part of the process of public debate; there were repeated efforts to deceive both the press and individual legislators; and the districting plans that were finally unveiled displayed a complete disregard for requirements of fair representation and good government.

I have no quarrel with Dr. Lee's criteria of competitive, compact districts that preserve natural communities of interest and observe city and county boundaries wherever possible; indeed, the Assembly plan drawn by Jerry Lewis, Vice-Chairman of the Assembly Elections and Reapportionment Committee, was an effort to prove that such a plan is possible. Partisan critics have scoffed that Republicans only favored a " good government" plan because it was to the Republicans' advantage. I don't believe that a "good government" approach necessarily favors either party, but if it does, it seems to me there might be a message there as to which party's candidates the majority of the people favor.

To many critics the question posed by the past year's failure to redistrict is whether the Legislature is an appropriate body to handle redistricting. Some have urged that nonpartisan bodies — composed of jurists, political scientists and other supposedly "neutral" members — be given the responsibility of redistricting. Others would preserve the role of the legislative leaderships of both parties in a bipartisan commission with some form of tie-breaker. Still others would leave redistricting in legislative hands, but ask the courts to impose new judicial standards to govern the process of boundary drawing.

Of these alternatives, the least realistic appears to

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LIEUTENANT GOVERNOR ED REINECKE
Chairman, California Reapportionment Commission

Realistic alternatives to reapportionment by the State Legislature, which in itself is probably the most profound example of conflict of interests, must be sought by the people of California.

While the State Supreme Court held that the California Reapportionment Commission was invalid and could not work for reapportionment, the validity of a reapportionment commission remains.

The question arises as to the composition of such a group with the extremely heavy responsibility of determining, from a nonpartisan viewpoint, where Assembly, Senate and congressional district lines will be. Some suggest that the academic community should be involved. Others point to judicial nonpartisanship. Still others believe that a combination of county clerks and county recorders might best serve the interests of the public.

However, each of these fail to meet one of the prime requirements necessary to represent the people of the state — they do not have to answer to all of the voters. That is what made the California Reapportionment Commission, under my chairmanship, and membership made up of the Secretary of State, Attorney General, State Controller and Superintendent of Public Instruction, so viable. Each of these elected officials found themselves locked into making what could have been a momentous decision — a decision that they had not

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PROFESSOR ROBERT G. DIXON, JR.
George Washington University Law Center

Dr. Lee's letter raises two interrelated questions: first, the advisability of transferring the reapportionment process to a non-legislative agency; second, the advisability of having fewer safe districts and more competitive districts. It may be easier to reach agreement on the first question than to work out a system guaranteed to produce competitive districts, even if that be an agreed goal.

The most innovative development in reapportionment has been the recent movement to transfer the reapportionment functions to a bipartisan commission selected by party leaders and a tie-breaker selected by the state's highest court. With variations this is now in effect in New Jersey, Pennsylvania and Hawaii, and two other states, Connecticut and Illinois, provide for it as a backstop in the event of legislative deadlock.

In principle the bipartisan commission is very appealing. It avoids a completely partisan apportionment by the Legislature; or a deadlock when party control of the Legislature and the governorship is split. It avoids the myth of a "nonpartisan" apportionment process; for there are no nonpartisans even in academia, and every district line drawn unavoidably favors one party more than the other. The goal is balanced political realism and fairness. The bipartisan commission device builds these elements directly into the apportionment process and can adjust to any degree of

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SENATOR ARLEN GREGORIO
Author of a bill to create a commission

I agree with much of what Professor Lee says, and I have introduced a constitutional amendment to institute a nonpartisan system of reapportionment.

My proposed commission plan is designed to keep geographical, social, and other communities of interest intact. It would respect local governmental boundaries, insofar as they make sense in relation to other communities of interest. Some city and district lines, as we all know bear little more relation to true communities of interest than did some of the most artificial districts in the reapportionment proposal which the Governor vetoed.

My proposal would, I believe, reduce in number but not eliminate "safe" seats. If we preserve communities of interest intact, we inevitably produce some safe seats. The point is that these would be naturally safe seats, so to speak — and therefore would be held by legislators who would be responsive to their constituents — as opposed to the safe seats which dominant parties have in the past artificially created.

These new safe seats would be safe for a certain type of politician, I think, but not necessarily for individual persons. If members of a given community of interest had a seat or seats which they largely controlled, then they would probably become more politically alive and evaluate their representatives' performance more closely. An incumbent would not be so assured of nearly automatic reelection as he is under our current system.

Eliminating safe congressional seats would put the California congressional delegation at a disadvantage, since it would not accumulate as much seniority as those from other states. The best answer to that problem, however, is to eliminate the extreme importance of seniority in Congress. When we attempt to design a new reapportionment system, we should not have as a main goal the shoring up of outmoded and undesirable political systems.

Bipartisan reapportionment commissions exist in other states, but they have not generally been successful. They frequently deadlock, and they also fail to solve many of the other problems that Professor Lee attributes to legislative reapportionment. I think the only real answer to reapportionment is a professional, nonpartisan approach, as my amendment would provide. I hope others agree.

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ALTERNATIVES *(Continued from page 58)*

by the Governor, of which at least one must be affiliated with each of the qualified political parties, and four selected by each house, one from each of the qualified political parties.

The bill also calls for the creation of five-member commissions appointed by the board of supervisors in each county to advise the state commission. The state commission is to approve a plan for Senate, Assembly and congressional reapportionment by the end of October of the year following the census.

SCR 13 (Nejedly) creates a select committee composed of legislators, local election officials, the Secretary of State, the Attorney General, and members of the Legislature's legal and fiscal staff to recommend to the Legislature "further legal guidelines in the reapportionment of districts in addition to the one man, one vote concept."

Other States

According to Senator Gregorio's staff, there are currently nine states which have completely removed the reapportionment function from the legislature. They are Alaska, Arizona, Arkansas, Delaware, Hawaii, Michigan, Missouri, New Jersey and Ohio. In addition, at least nine more states provide for either an administrative office or a commission or the courts to act in the event the legislature fails to redistrict. These are: California, Connecticut, Illinois, Maine, North Dakota, Oklahoma, Oregon, South Dakota, and Texas. No two of these 18 commissions are alike as to composition or procedures. Only one of the 18 commissions can be described as nonpartisan, rather than bipartisan, and that is Maine's, which is made up of the supreme court of the state. The other 17 commissions are composed of elected officials, party officials, represenatives chosen by such officials, or combinations of the three.

Prospects

Even with the general dissatisfaction with the present reapportionment system in California it is inconceivable that the Legislature will vote to divest itself of its power to reapportion itself. Senator Gregorio, for instance, does not expect his bill to go very far in the Legislature. It is his hope that his bill will help to build public support for placing a constitutional amendment on the ballot through the initiative process some time in the future.

Faced with a serious threat of an initiative stripping it of its reapportionment power, the Legislature would certainly consider a number of less drastic steps to change the process. Such changes, while not now in bill form, could come about in the not too distant future even if there were no initiative. It is possible, for instance, that the Legislature may enact legal guidelines for reapportionment that are consistent with but go beyond the present one man, one vote standard. Possibly the Legislature will consider amending the constitution to provide for a valid reapportionment commission to act in the event of a deadlock. Such a commission could be similar to or different from the invalid commission now provided for in the constitution.

With at least one more year of reapportionment struggling ahead, it certainly seems safe to surmise that this issue will not die quickly, and perhaps, as happened in 1926, the public's dissatisfaction will result in significant changes in the reapportionment process.

MONAGAN *(Continued from page 60)*

me to be the "nonpartisan" approach. As long as we have a system of single-member legislative districts, redistricting will be an intensely political issue. If there are men who are "nonpartisan," they will assuredly lack all the other qualifications that are required in making decisions on the poltical base of our representative system. The bipartisan commission with a tie-breaker is perhaps more acceptable, although it may place too much responsibility or concentrate too much power in the hands of a few leaders.

As to the imposition of further judicial standards to control the redistricting process, I have long felt that the doctrine of "one man, one vote" must be supplemented with other criteria if it is not to become an open invitation to partisan gerrymandering. First, I would favor an effort — either legislative or judicial — to define in straightforward terms what is required by a fair and rational policy on reapportionment and to provide criteria — such as a standard measure of district compactness — that will guide legislatures in the task of districting.

Second, we need some clear-cut institutional incentive. 1971 was plagued by shaky strategies premised on political and legal uncertainties, such as whether or not the Reapportionment Commission was constitutional, and whether or not the courts would accept bills vetoed by the Governor. Although I am not wedded to any special membership, I have always believed in the desirability of a reapportionment commission with the power to act in the regretable event that the Legislature fails to do the job in the requisite time period. Inasmuch as the California Supreme Court did not reject the concept of such a commission (but only the constitutionality of the specific way in which it was created), perhaps we should pursue the idea of a commission which would be mandated to act if the Legislature and Governor have failed to do so by a specific date. A date such as June 30th in the year following the census would be necessary, in order to give the commission sufficient time to organize itself, hear interested parties, and adopt plans in time for the orderly conduct of elections.

It is a very popular thing to criticize the Legislature this year, and I personally have been one of its most frequent critics. But I would suggest that the adoption of rational districting criteria in addition to mathematical equality of population, plus provision for some form of commission to act only if the Legislature fails, is the proper way to ensure that we avoid a repeat of the 1971-72 fiasco.

In a democracy, the experts on the problems of representing people should be legislators — not judges or political scientists — and it is in the Legislature that the fundamental decisions should be made on the changes that are necessary in our representative system.

The addition of compactness (so the people can know who their representative is) to the districting standard of mathematical equality will encourage competition (so the people have an effective choice). There would then be ample opportunity to change "experts" — although I suspect that the very existence of that opportunity might reduce the necessity for frequent changes. For, with a few obvious but minor changes, we would then have a legislative structure that would be both representative of our diverse state and responsive to its changing needs and desires.

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DIXON *(Continued from page 61)*

equal population stringency. Of course, bipartisan commissions cannot incorporate third party interests, but only if we switch to proportional representation can we solve this problem — at the cost of creating new problems.

Although I still favor, in principle, the concept of bipartisan commissions with tie-breakers as better than any other device, their actual operation indicates that like all human institutions they have their foibles. The New Jersey commission which operated in the late 1960's apparently did accommodate population equality, fairness and political realism. Last spring, however, when the New Jersey commission was called into being again, it refused to operate in the intended fashion. Instead it turned the matter over to a computer firm, and adopted one of the many resultant plans (a computer can give you hundreds) without any assessment of its political fairness. Court suits resulted.

In Connecticut, although a court suit also resulted, the bipartisan board apparently did operate in its intended fashion last fall. But in Illinois the reapportionment commission split, the press charged a sellout to Mayor Daly, and Chicago preserved two Democratic seats by the device of extending districts into Cook County to pick up necessary population.

On balance it could be said that bipartisan commission operation is as good as legislative control of reapportionment, and frequently can be far better. It should help to keep each major party viable. It does not provide an automatic answer, however, for such additional qualitative questions as heterogenous versus homogeneous districts (as in the Illinois example above) or safe versus competitive districts.

Ideally there should be enough safe districts to keep each party in business and enough competitive districts to make the legislature politically sensitive to clearly defined issues. If all districts are safe, a system is politically frozen. If all districts are competitive, a single dominant issue could produce a landslide for one party and leave the other 40-45 percent of the population unrepresented. It would be no easy task, however, to devise either a commission or enforceable guiding standards designed to bring about a nice safe-competitive seat balance, while at the same time preserving communities of interest and general party balance in the legislature. Continued study and publicity must be relied upon for this in the long run.

MORETTI *(Continued from page 60)*

this year regarding "community of interest" and adherence to community boundaries (city, county, regional). Existing governmental boundaries (especially in the case of cities) many times are a very poor means of determining a legitimate "community of interest". Many California cities have been incorporated principally to keep people out (usually minorities) rather than to bring together all of the segments of a particular community. We have attempted to correct this situation by ignoring existing governmental boundaries to form true communities of interest.

I strongly believe that the representation plan that ultimately emerges from the democratic process will enable California state government to remain strong and responsible to the needs of our citizens.

REINECKE *(Continued from page 61)*

asked to make — but one which the voting public could hold them individually responsible for making.

The fallacy of having the Legislature reapportion itself breeds contempt for the needs and desires of the public because each assemblyman or senator can place the blame for gerrymandering on the other 119 members of the Legislature. They only have to answer to their own constituancy, and if the blame for gerrymandering is cut thin enough, each legislator need take only a small slice.

The plans placed before the court present a unique opportunity for comparison. The plans approved by both houses of the Legislature featured terribly gerrymandered districts; cities and counties split apart in a most unreasonable way; districts which began in the desert and ran nearly to the sea; ghettos fractured to a point where the residents there could not speak as one voice, and districts which were politically dominated by one party.

The plan we offered as the Reapportionment Commission followed the simple criterion of one man, one vote. It contained compact and contiguous lines, retaining the communities of interest as much as possible, such as cities and counties, with no consideration as to race, creed or color of the inhabitants. But most important, absolutely no consideration was given to political registrations or location of the incumbents' homes. That criterion was adopted unanimously by all five members of that commission knowing full well they would have to answer to the voters of the entire state if they tried any hanky-panky.

The public has the right to demand a truly representative government in the Assembly, Senate and Congress. They will attain that only when reapportionment is taken out of the hands of the elected who are intent on perpetuating themselves in office and retaining their party's political power in government.

The political power of our minority citizens hangs in the balance of a sound reapportionment. It is time we listened to their pleas and took action to grant them their right.

LEE *(Continued from page 59)*

districting. California's political and civic leaders, citizens — and legislators — should begin now to explore alternative methods of designing legislative and congressional boundaries in 1981.

To sum up, there are many aspects of the political system which must be considered in drawing district boundaries: party balance, representation of communities, impact upon the legislative process, etc. In addition to these — and not to their exclusion — is the matter of electoral competition in the individual districts, the value of which should rank high in any list of criteria against which one would judge a districting plan. Admittedly, our understanding of all of the implications of districting for the legislative system and the electoral system is far from complete. The issues at stake involve some of the most complex questions of politics, in terms of both political philosophy and evidence. But in a democracy, the burden of proof should be on those who would deny effective electoral competition.

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sion," said Hatten later, "a decision was made that I proceed to make the announcement" — the announcement that he had offered his resignation to the Governor. When Hatten later appeared before the committee, he promptly made that announcement, thus sacrificing himself and blunting the impact of further questioning.

Committee Findings

The select committee's hearings were recessed on January 13th with the understanding that the administration would conduct its own study of the division and report its findings within 30 days. In the meantime, however, the select committee issued a report of preliminary findings in which it charged the division with five serious weaknesses: a freqeunt failure to enforce labor safety regulations, "inefficient and improper" administration, serious morale problems, an inadequate safety education program for employers, and insufficient manpower. On the first count, the committee said that the testimony it had received from the division's own safety engineers and from private safety consultants "showed that the present division administrators either fail to understand the importance of enforcement or have embarked intentionally on a policy of non-enforcement." Division officials were found not only to have displayed "an amazing reluctance to prosecute employers who violate the safety codes," but also to have overruled safety orders issued by inspectors in the field without direct knowledge of the violations which had prompted the orders.

In 1970, the committee said, the division's construction section recorded 33,400 safety code violations but failed to issue a single "yellow tag" to shut down a dangerous project. During this period, 21,952 disabling work related injuries and 122 deaths were recorded for construction projects. The lack of effective enforcement, said the committee, was traceable directly to the chief of the division who, "with the knowledge and support of his top assistants," had established procedures "making it virtually impossible to obtain enforcement in some areas and all but eliminating the possibility of prosecution of persistent violators." According to the committee's findings, Hatten had failed to give his field engineers the skills and equipment necessary for their work; had supported budget economies, such as travel fund limitations, which made it impossible for the men to cover their assigned territories; and had failed to make effective use of the services of the Attorney General's legal staff to prosecute safety code violators. As a consequence of these failures and the lack of communication between the division's top administrators and the inspectors in the field, "a serious morale problem" had developed among field safety engineers. The men in the field "who face unhappy employers and workers daily," have come to feel that they do not have the full support of division administrators, said the committee, and too often have to work under inexperienced supervisors who cannot back them up when needed.

To make things worse, budget cuts, which had reduced the division's total staff from 305 to 286 positions since 1966-67, had left several sections seriously undermanned, with the result that in the construction and industrial sections, "where more than 90 percent of the deaths and injuries within the division's jurisdiction occur, inspections must now be limited to the larger employers." In addition to all this, the committee found the division's financially starved education program to be "less than useless," despite statements by division officials that safety education is "one of the most important tools" in reducing accidents.

Administration's Studies

Immediately following the recess in the select committee hearings, the Reagan administration took several steps to determine for itself the truth of the legislative committee's charges and to gather facts which would provide a basis for responding to those charges. Some two dozen management auditors were sent out by Director of Finance Vern Orr to interview as many of the division's safety engineers as possible, to either refute or verify the testimony of those who had appeared before the Assembly committee. In less than two weeks the auditors interviewed nearly 90 percent of the division's field personnel and compiled a 46-page report of their findings. This report confirmed the testimony obtained in the earlier legislative hearings. The auditors found the Division of Industrial Safety to be understaffed, undertrained and underequipped and suffering from very low employee morale. The morale problem was directly related, they said, "to a serious split between what the safety engineers feel to be the role of the [construction] section — enforcement — and management's emphasis — education." The emphasis upon education and voluntary compliance, in the view of safety engineers interviewed by the auditors, had made the construction section a "paper tiger," with the result that "habitual offenders ignore safety inspectors' warnings and continue unsafe practices because no actions will be taken against them."

On January 27th, by which time he had received a preliminary report of the auditors' findings, Governor Reagan announced his acceptance of Hatten's resignation and the appointment of Roy C. Bell as acting chief of the division. Although Assemblyman Fenton and Assembly Speaker Bob Moretti had also called for the resignation of Hatten's assistant, Vincent White, and the director of the Department of Industrial Relations, William C. Hern, the administration's action to replace Hatten served to demonstrate its understanding of the seriousness of the problem and to discourage further attacks from the Democratic leadership in the Assembly. Bell, who has been chief of the department's Division of Industrial Accidents since 1967, was employed from 1952 to 1967 as head of safety, workman's compensation and medical programs for Hughes Aircraft Company and has been active in the National Safety Council.

Fact-Finding Committee

In the meantime, Hern had been directed to undertake a fact-finding study within his department to provide the administration with information which could be used to prepare recommendations for strengthening the Division of Industrial Safety. Hern in turn directed

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members of his staff to gather whatever material they could regarding the strengths and weaknesses of the division. The information which Hern's staff collected was turned over to a specially appointed Select Labor-Management Fact-Finding Committee, which included three labor representatives, three management representatives, (one each from the California Manufacturers Association, the Engineering and Grading Contractors Association and the Farm Bureau Federation) and Hern, who served as chairman. In addition to the material collected by Hern's staff, the committee was given the full report prepared by the Department of Finance auditors and the transcript of the legislative committee hearings. In transmitting this material to the fact-finding committee, Earl Coke, Reagan's Secretary for Agriculture and Services, accused Fenton and Moretti of making "shameful, politically motivated statements" regarding the division, but promised that the Reagan administration would take all necessary steps to see that the division "fullfills its vital role of protecting the health and safety of California workers."

The Select Labor-Management Fact-Finding Committee began its study on January 26th. Two weeks later, on February 8th, it submitted to Coke a 24-page report that again bore out the charges made during the earlier legislative hearings. With regard to the management of the Division of Industrial Safety, the fact-finding committee said it had found "a vacuum in direction and supervision in the field," a lack of consistency in enforcement practices, inadequate staffing for the statistics and research division, and "bad records management which leads to differing (enforcement) policies and procedures." The committee also reported that the "area of prosecution has been a source of continuing frustration within the division" as a result of insufficient training for safety engineers, the "single-level veto" of prosecution requests by supervisors, " a general feeling of inhibition . . . with respect to initiating prosecutions," and "a somewhat defeatist attitude" among the division's field personnel of the feeling that "headquarters lacks enthusiasm for the prosecution approach."

Minority Reports

Although all seven members signed the administrative committee's report, three minority statements were appended — one by Hern, one by the management representatives, and one by the labor officials. In his statement Hern objected to the committee's unwillingness to condemn those who would "publicly castigate the entire division based on testimony of a few construction section personnel." The management representatives in their minority report, however, did attack the legislative investigators for "jumping to conclusions which were seriously premature" and resulted, they said, in a "disfiguring portrayal of the division and its people." They also charged that the legislative investigation had been conducted "for the benefit of politics and the desires of organized labor." The labor representatives in their statement endorsed the full report of the committee but went on to conclude that "the responsibility for the mismanagement of the Division of Industrial Safety directly lies with the Director of the Department of Industrial Relations, William Hern" who, they said, should resign.

The report of the fact-finding committee was submitted by Coke to the Governor on February 9th, together with eight recommendations which Coke said he had drawn up after a "careful review" of the report (see box). The administration stated in a press release the following day that these recommendations "will provide the new teeth necesary to effectively enforce state regulations." The press release went on to report that the rate of disabling work injuries in California had been reduced to a ten-year low and reiterated Governor Reagan's support for Hern as Director of the Department of Industrial Relations.

Hearings Reconvened

The Assembly committee reconvened on February 22nd to hear the report of the Labor-Management Fact-Finding Committee, and to learn what steps had been taken by the administration to remedy the problems brought out in earlier testimony before the committee. The most significant testimony came from Roy J. Bell, the new acting chief of the division. It was apparent that Bell had obtained assurances from the administration that when he took on this new job (while retaining his position as chief of the Division of Industrial Accidents), he would get what he needed to make substantial changes. Bell reported that he had asked for and had been promised an immediate budget supplement of approximately $250,000 for the current year, enough to provide for 49 additional professional personnel and 19 clerical positions, together with necessary travel and equipment funds. In addition, Bell said he had asked for funds to establish a new legal investigative and enforcement unit to be made up of attorneys and investigators who will train safety engineers in investigative techniques, provide necessary legal counsel, and assist with enforcement and prosecution procedures. Specialists from this unit and other units within the division will also be used to form "flying squads" to deal with and investigate major accidents such as that in the Sylmar Tunnel.

Bell also reported to the committee that he had met personally with all of the division's safety engineers as a first step in rebuilding communication between headquarters and the field personnel. In these meetings, Bell said, the safety engineers were told "to shut down any job where, in their opinion, a serious and eminent hazard" is found. He also promised the safety engineers that they will get necessary new equipment, adequate travel funds and additional training, and encouraged them to submit ideas as to how to strengthen the division and provide more effective authority in the field.

These and the other actions reported by Bell obviously pleased the Assembly committee members, who complimented him on his report and expressed some optimism that the weaknesses in safety enforcement which they had uncovered might soon be eliminated. Fenton announced that the committee has completed its investigative hearings and will now turn to a study of proposed legislation to give the state a stronger hand in attempting to reduce industrial accidents.

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Legislative Hearings Spotlight Failure to Implement New State-Federal Child Care Programs

Fifty million dollars is a lot of money to be losing, even for a state. But this is the amount that Wilson Riles, Superintendent of Public Instruction, estimates California is losing annually in uncollected federal matching funds for childrens' day care programs.

In two public hearings last month, legislators sought to find the reason. The first of these two hearings was held by the Senate Health and Welfare Committee to explore the need for child care services and to hear from child care specialists about their difficulties in attempting to expand existing programs and obtain funding under the 1971 Welfare Reform Act and other new legislation.

The Welfare Reform Act of 1971 appropriated $3 million to be allocated to the counties on a 2-to-1 state-county matching basis to provide child care services for former, current and potential welfare recipients who certify that they will accept employment or vocational training if they get such services. In addition to the state and local funds, which could total $4.5 million, the federal government will provide up to $13.5 million for this purpose. The Department of Social Welfare was to have developed a plan for implementation of this program and to have made the funding allocations by January 1st of this year.

In the second hearing, the Assembly Ways and Means Committee was told by Legislative Analyst A. Alan Post that the new legislation was not being implemented and that the state was failing to collect the available 75 percent federal support for thousands of children already receiving care at state expense. Thousands more, he said, are eligible for federally underwritten care, but they have not yet been properly certified. Post told the committee that if all the eligible children currently supported in children's centers were properly certified, the state would collect $14.7 million in federal funds. Certification costs, he said, would be paid by the state and would be returned threefold by federal reimbursement. He said the children's center "state means test" narrows the federal definition of potential eligibility and applied throughout the state, would eliminate a worry that the program might grow beyond what was intended.

Inter-departmental Conflict

Chairman Willie Brown asked Riles, whose Department of Education administers the programs, and Robert Carleson, Director of the State Department of Social Welfare, which handles the money and eligibility rules, to explain why the programs had not been implemented. Riles said his department had nothing to do with certifying children or with financing new programs; that, he said, was Social Welfare's responsibility. The Department of Education simply administers child care programs under contract to Social Welfare. Riles also said that, in his view, the certification lag is due to a leadership problem — if Social Welfare would work with the county welfare departments the way the Department of Education works with local school districts, he said, the counties could procede with proper certification of all eligible children. Riles went on to say that his department was more than willing to get started on the new program, but was stalemated by the failure to obtain agreements with Social Welfare. He said the difficulty in obtaining agreements and certification goes back to 1968 and that increasing amounts of federal monies have been lost each year as a consequence.

Riles also reported that the Departments of Social Welfare and Education have run into a contract conflict with regard to campus child care centers. Education believes the centers can be operative immediately with a minor amendment in the existing children's center agreement between the two departments, while Social Welfare insists on a new contract.

Social Welfare's Position

When Carleson's turn to testify came, it was evident that the committee was ready to express its displeasure with what it had been told about Social Welfare's role in holding back the development of child care programs. Carleson argued in his defense that to get the maximum federal money he would have to mandate all counties to provide services and to certify children of former and potential as well as current welfare recipients. "The federal definition of potential is so broad," he said, "I'm afraid of what we would be getting into." He also told the committee he thought certification should be a county option because he did not want to mandate additional expense for the counties.

Senator Anthony Beilenson, Chairman of the Senate Health and Welfare Committee, who was sitting in with the Assembly Ways and Means Committee, told Carleson he had no choice, that his contract with the Department of Education requires him to "assure" that all 58 counties participate and that all eligible children are certified for children's centers. "That is a contract, not a law," Carleson replied, "You can't legislate through contract." The next day, however, Carleson ordered the counties to certify all eligible children who are now attending children's centers.

No Guidelines

On other points Carleson appeared to be less responsive. According to the Legislative Analyst, the full

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extent of implementation of the child care provisions of the 1971 Welfare Reform Act, which could bring in an additional $13.5 million in federal funds, was a letter from the Department of Social Welfare to the counties indicating the amount of each county's tentative allocation of the $3 million state appropriation, and asking the counties to develop their own plans for expanding their programs. The Analyst said that no guidelines had been provided by Social Welfare nor were the counties advised that to qualify for federal matching funds they must include an educational component in their programs.

Under questioning, Carleson said he has been proceeding cautiously but expects to have allocated $2 million of the state money by June, 1972. He acknowledged, however, that only six small counties have submitted proposals for funding. When pressed, Carleson said he has issued no regulation mandating counties to provide the day care services as required in the 1971 Welfare Reform Act. Reminded by Assemblyman John Vasconcellos that in response to a pending lawsuit, he had asked for a continuance on the basis that he was preparing the regulation, Carleson stated, "Just because we are preparing a regulation, doesn't mean we intend to implement it." By way of explanation, Carleson went on to say, "The federal government has been paying on a non-statewide basis so far. They may quit paying. If so, we will just use state money to the fullest extent. If the county supervising boards ask me to mandate, then I will do so, otherwise not. I'm talking now about the Welfare Reform Act, not children's centers."

This statement by Carleson touched off a heated response from Brown, who told Carleson, "When a law is enacted everyone should obey it, and you, Mr. Carleson, are no different. We are the policy makers and whether you like a law or not, you are to comply." Brown then told the committee, "This man has chosen to misinterpret the law. Either remove him as an administrator or put legislative restraints on him to keep him from interpreting the law in this insane way."

Contract Problems

Earlier Riles testified that he was getting impatient on the continuing difficulty in getting agreements between the two departments in this area. "Setting up these contracts has been one of the most frustrating experiences I've ever had," said Riles. "I don't think we're ever going to make it when you have two departments with such different philosophies." Riles reported that Education now holds 100 unprocessed applications for new child care programs, some of which are seeking no state or county money, only federal allocations.

Much of the problem appears to lie in the difference between the two departments as to the purpose of child care programs. Carleson has made it clear that he wants to limit child care services to welfare mothers with the objective of getting them into training or employment and off welfare. "My approach," he said, "is to concentrate efforts so the maximum number of women can be employed. The children should be safe and have effective care, but the centers are primarily to serve welfare mothers." Riles, on the other hand, believes child care centers can help children break out of the poverty cycle and should serve the maximum number of disadvantaged children. Thus, he believes that child care should have a significant educational element. "I think the quality of child care is important and we could make a great difference in the lives of our population if we give more attention to care at an early age," Riles told the committee.

In an effort to break the stalemate, Riles suggested four alternative solutions to the committee: (1) have the Legislative Analyst serve as an arbitrator between the two departments; (2) ask the Governor to designate another agency to handle the funds and oversee their use; (3) assign a legislative committee to meet with the two departments in contract negotiations; or (4) assign a special legislative committee to investigate the merits of giving full responsibility for child care programs to the Department of Education. Riles said he made the last suggestion reluctantly and only out of desperation. "We are in the business of education," he said. "We don't want to do Social Welfare's job (of certifying and applying for federal funds) — but we will do it if there is no alternative."

HITCH *(Continued from page 49)*

Another very important thing is what happens in the relations between the federal government and the state. If something like revenue sharing becomes important, and the state budgets are relieved to that extent, then I think it will begin to open up. Or if the federal government takes over the financial responsibility for welfare from the state, that would just make a tremendous difference in the state's financial picture. These are things that might happen, but they're developing very slowly.

Journal: How can the Governor and Legislature best determine whether another $5 million in state funds should go to the University, or to community mental health programs, or to the park system? What can the University tell the politicians about how to make these decisions?

Hitch: Well, that's a problem I've wrestled with quite a lot during my lifetime, and I don't think there's any answer except that judgment has to be exercised on the basis of costs and benefits of the different programs. There's no way in which they can be directly compared. We just have to look at what $5 million would do for the University, and what it would do in the mental health program. I think we could improve the data on which such decisions are made, and the analysis of the consequences of adding and subtracting. But in the end a reasonable man has to look at it and make up his mind.

Journal: These marginal decisions are often made overnight and under great pressure. That suggests that the University also has to look toward its political constituency, in the broadest sense — to be a force in the community itself so that those decisions made late at night take that into account.

Hitch: That's correct, and I think we've made a little progress in the last year. In the previous few years it was very hard to develop a constituency, but it has improved this past year. We have improved our organization of the alumni, and there are a lot of alumni that are willing and able to help us. And the chancellors and I and the vice-presidents have been speaking throughout the state about what the University is doing. I think we've made some progress. I think the atmosphere is a lot better in Sacramento this year than it was last year.

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California Journal/*NEWSBRIEFS*

Governor's Commission Rejects Coastal Management Plan

On February 11th, the California Advisory Commission on Marine and Coastal Resources (CMC) unanimously rejected Chapter VI of the Comprehensive Ocean Area Plan proposed by the Department of Navigation and Ocean Development (DNOD). CMC found that the chapter, which pertains to a management system for the coastal zone, conformed to only 18 of CMC's 45 official coastal management principles, whereas at least one of the bills introduced in the 1972 legislative session conforms to substantially more. According to Bruce E. Jones, Executive Secretary of CMC, SB 100 (Grunsky) and AB 200 (Sieroty) conform to as many as 39 of the 45 principles. The commission recommended that DNOB revise the chapter in accordance with CMC's principles, which have been in development since 1969 and which incorporate a strong state and regional administration.

The Comprehensive Ocean Area Plan (COAP) was prepared in accordance with the Marine Resources Conservation and Development Act of 1967, which called for the development and maintenance of a "comprehensive, coordinated state plan for the orderly, long-range conservation and development of marine and coastal resources which will insure their multiple use in the total public interest." While DNOD, under the Resources Agency, is responsible for the administration of the development program, CMC was mandated by the Legislature to review the plan and recommend "any changes or additions it deems desirable."

The commission has completed its review of COAP in its preliminary form. The plan, to be delivered to Governor Reagan by March 20th, is to serve as the basis for the Governor's coastline legislation.

Reagan Proposes Catastrophic Health Insurance for all Californians

In his state of the state message this year, Governor Reagan promised to develop a system of health insurance to protect Californians against the economic ruin brought on by catastrophic illness or accident. In mid-February, the Governor announced the development of catastrophic health insurance as part of the California Health Security Program. In a televised "Report to the People", Reagan said that the program is aimed at California's 17 million persons in middle income families "who, themselves, can neither afford, nor do they today have access to, such catastrophic illness protection." The only persons not eligible will be those on Medi-Cal and those with military health insurance.

Under the Governor's plan, every California resident earning over $500 per pear will be required to pay $3 per month, either directly to the State or through payroll deductions. According to Reagan, the program must be mandatory in order to "make such low-cost insurance possible."

If approved by the Legislature, the California Health Security Program will also require all private health insurance companies in California to offer "basic approved plans" with at least 100 days of hospital care, 30 days of extended care and $3,000 in outpatient services per year. A commission will be created to approve the basic plans. Once an individual's benefits are exhausted under his or her basic health plan, unlimited protection will be provided automatically under the catastrophic health insurance (CHI). A patient not covered by an approved basic health plan will have to prove he has spent $8,000 for medical care before CHI payments can begin.

Assembly Majority Leader Jack Fenton called the Governor's program "richcare", claiming that millions of Californians cannot afford a basic health plan. Senate Majority Leader George Moscone also criticized the program, saying, "The Governor is continuing to perpetrate a myth that the only difficulty a Californian has is coping with catastrophic illnes." William Campbell, chairman of the Assembly Health Committee said, however, that the California Health Security Program should have broad support among middle-income families. Campbell, who is carrying the legislation (AB 2) for the administration, is optimistic about its chances of passage.

Democrats Win Upset Victory In 76th Assembly District Race

Democrat Bob Wilson, a San Diego Attorney with the same name as the local long-term incumbent Republican congressman, won a stunning upset victory February 29th in the race for the previously Republican 76th Assembly District. It was the first Democratic victory in the district since it was created in 1961. Wilson overcame a 50-50 party registration, which usually means a Republican victory, especially in special elections. He also overcame his own party's leadership which backed another Democrat, Dan Finnegan, in the February 1st primary. Wilson's chief opponent in the run-off was Republican James Ashcraft, who had been the front-runner in the primary, soundly defeating his Republican opponent Charles "Bud" Porter. Wilson won the Democratic primary nomination with a total of only 12 percent of the total vote cast February 1st.

The run-off vote totals were as follows: Wilson 24,899 (47.7%); Ashcraft 23,401 (44.7%); Peace and Freedom Party candidate James P. Stronski 1,349 (2.5%); and American Independence Party candidate Armin Moths 2,765 (5.3%). Despite the closeness of the totals, it does not appear that third party candidates were decisive in this race, because if the AIP vote is added to the Republicans and the P&F vote is added to the Democrats, Wilson still comes out ahead.

Wilson's election returns the Democratic majority in the Assembly to 43-37 margin it was before last November, when Bill Brophy won a similarly surprising victory in the heavily Democratic 48th Assembly District in Los Angeles.

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LETTER FROM WASHINGTON
By Lou Cannon

Feb. 18, 1972

CONCORD, N.H. — There is a society in Washington expressly formed to rescue Franklin Pierce, New Hampshire's only President, from the "obscurity he so richly deserves." Pierce's granite statue shares with Daniel Webster's the snowy little park that fronts the New Hampshire statehouse here and from which it gazes vacantly out upon the McCloskey headquarters and the Muskie headquarters across the street. Perhaps someday a member of the goofy, 424-citizen legislature that is supposed to govern this state will propose statues for the political candidates who have fallen in New Hampshire, and the park will then be filled to overflowing. Until that distant day, such pale remembrances as the following will have to suffice for the 1972 New Hampshire primary.

The most tempestuous of the candidates, by a light year or so, was clearly Edmund Muskie. His campaign people say that Muskie does "not suffer fools gladly," and whatever the accuracy of their contention, he does not suffer criticism at all. A scruffy McGovernite kid at the Keene High School, who rather slow-wittedly asked a bright question about one of Muskie's votes on a campaign financing disclosure amendment, was pounced upon and demolished by the senator, who demanded to know "who signed the paper" his questioner was reading from. The paper was unsigned, as it turned out, and Muskie then proceded to berate the Keene kid for "not doing your homework."

Muskie is a serious man who takes himself seriously and doesn't want to be sidetracked on his way to the presidency. But his irreverent and slightly zany press secretary, Dick Stewart, previously a reporter with the Boston *Globe*, is occasionally able to deflate him. One of the early stories of the campaign is that Muskie, in another state, returned from a speech to find Stewart and some reporters playing poker in his suite. "Jesus Christ," Muskie said. "You're not supposed to announce yourself," Stewart replied without looking up from his cards.

And then there was George McGovern. He is a dedicated, earnest man, faintly reminiscent of Barry Goldwater, who answers questions honestly and seems to welcome criticism. "I'm not a waiter, I'm George McGovern," he told one hungry customer at a Concord restaurant after entering from the kitchen. The customer, like the McGovernites who patiently applauded their man at campus speeches, seemed faintly disappointed. McGovern made some points about Muskie's refusal to debate him, but he has less passion than Muskie ever when he says more. What passion he has is reserved for John Lindsay, for reasons summed up by Gary Hart, McGovern's national campaign manager: "All that stands between us and the whole left wing of the party is Lindsay." But the New York mayor was not running in New Hampshire.

There was, in addition to Muskie and McGovern, Sam Yorty, lonely and relaxed, campaigning assiduously from his red, white and blue Yortymobile. (When the Muskie press bus pulled into a motel parking lot alongside the Yortymobile, Stewart cracked: "All right, men. File on in and get your X-rays.") There was also Senator Vance Hartke, who has never forgiven the press for the attention paid to his Indiana colleague Birch Bayh. And there was a half-hour film of Wilbur Mills that made a better case for the Mills write-in candidacy than Mills did.

On the Republican side the New Hampshire Committee for the Re-election of the President dispensed mailings like so many Chinese proverbs. When the headquarters first opened in a ramshakle Concord motel, a caller asked if it was the Nixon committee and was told, "No, it's the Committee for the Re-election of the President." But the committee performed smoothly enough in the final weeks, doing what it had to do without worrying about the costs. By the count of its staff, the committee accounted for four statewide mailings, frequent radio spots, substantial newspaper advertising, numerous coffees, a rally or two, and a telephone call to every Republican voter in the state.

Against this organization and its faraway President, the debt-ridden McCloskey campaign pitted its moody and courageous candidate plus hope, organization and a flock of high school canvassers. On the third and top floor of the crumbling building which served as McCloskey headquarters, longtime McCloskey secretary Janet Brune tied a parasol to a chair to protect herself from falling plaster. And someone, perhaps the candidate, tacked a crudely printed sign above the campaign manager's office: "Leadership as Absurd as the Problems."

There was another Republican Congressman in the race, a decent man named John Ashbrook who had a later start than McCloskey and less local leadership than any other candidate in New Hampshire. Ashbrook also irritated some voters by saying he just wanted "a start" so he could go on to the Florida primary. "I want a start so I can go on to Florida, too," a shoe worker told me contemptuously. He was unusual among non-politicians I talked to in that he had even heard of Ashbrook.

All told, it can be said with confidence that this year's New Hampshire primary, thanks largely to the 18-year-old vote, provided one of the great floating civics classes of the Western world. Any high school of any size that wanted a candidate could get one, and many heard them all. The campaign also prompted a spending spree that on a per capita basis may outdo all the other primaries yet to be run. If one accepts the Muskie and McGovern estimates of $200,000 for each of their campaigns and allots $300,000 to the Nixon effort (the reelection committee issued four mailings compared to two for each of the Democratic prime contenders), total spending for all the candidates probably ranged between $1 million and $1.2 million. That works out to between $6 and $7 a vote, which is a long way from the politics of Franklin Pierce.

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CALIFORNIA CALENDAR

Meetings of the following state boards and commissions are listed each month; if one of these boards is not listed, it can be assumed that it is not scheduled to meet this month. Boards and commissions to be included are: Board of Corrections; Trustees of the California State Colleges; California Community Colleges Board of Governors; Coordinating Council for Higher Education; Board of Education; Highway Commission; Little Hoover Commission; Commission of Housing and Community Development; Park and Recreation Commission; University of California Board of Regents; and Social Welfare Board.

March 9-10	**State Board of Education.** 107 S. Broadway, Rm. 1138, Los Angeles. 9 a.m.
March 9-11	**Law Revision Commission.** State Bar Bldg., 1230 W. Third St., Los Angeles. 3/9 — 7 p.m.; 3/10 & 3/11 — 9 a.m.
March 10	**Parks & Recreation Commission.** Solvang Municipal Improvement District Auditorium, 1644 Oak St., Solvang. 9 a.m.
	Board of Corrections. (date tentative) **Closing of filing for state offices.**
March 16-17	**Board of Regents, University of California.** 1100 S. Grand Ave., Los Angeles. 9 a.m.
	Highway Commission. City Hall, Santa Rosa.
March 21-22	**Trustees of the California State Colleges.** 5670 Wilshire Blvd., Los Angeles. 9 a.m.
March 23	**Council on Criminal Justice.** Host Hotel, Sacramento Metropolitan Airport. 9 a.m.
March 23-24	**Social Welfare Board.** County Public Health Bldg., Ventura. 3/23 — 7:30 p.m.; 3/24 — 9 a.m.
March 29	**Little Hoover Commission.** State Capitol. (date & time are tentative)

The following boards and commissions follow a standard monthly schedule and thus are not included in the Calendar: Board of Agriculture, first Thursday of each month; Allocation Board, second Tuesday; San Francisco Bay Conservation and Development Commission, first and third Thursdays; Merit Award Board, second Wednesday; Public Works Board, last Monday; Reclamation Board, second and fourth Fridays; Soil Conservation Commission, fourth Tuesday; State Lands Commission, last Thursday; Transportation Board, first Thursday; California Water Commission, first Friday; and Water Resources Control Board, first and third Thursdays. Please contact the agency for meeting time and place.

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Address orders to California Journal Roster, 1617 10th Street, Sacramento, California 95814.

PEOPLE IN THE NEWS

APPOINTED

Senator Gordon Cologne, 47, as Associate Justice of the District Court of Appeals, by Governor Reagan. Cologne, Chairman of the Senate Water Resources Committee, has served in the Legislature since 1961.

Judge Marie L. B. Collins, 41, of the Oakland-Piedmont Municipal Court, **Peter D. Hannaford,** 39, vice-president of an advertising agency, and **Vincent W. Jones,** 41, of Sears, Roebuck and Co., to the Governor's Consumer Fraud Task Force, by Governor Reagan.

Jay D. Michael, 39, legislative advocate for the University of California, as University Vice-President for Governmental Relations, by the Board of Regents. Michael will continue to represent the University in Sacramento and will also be responsible for the UC office in Washington, D.C.

David B. Swoap, 34, district coordinator for Senator Howard Way, as assistant secretary of the State Personnel Board, by Nita Ashcraft, board president.

RESIGNED

Dr. Philip R. Lee, as Chancellor of the UC San Francisco campus, effective with the appointment of his successor. Lee became Chancellor in March of 1969. He will continue as a member of the faculty of the UCSF School of Medicine.

RETIRED

Laurence D. Kearney, 61, chief legal advisor with the State Department of Education for 18 years. He has served the state for over 25 years.

Edwin W. Pauley, 69, as a Regent of the University of California. Pauley served as a Regent for 32 years and was chairman of the board in 1956-58 and 1960-62.

DIED

E. Guy Warren, 72, chairman of the California State College Board of Trustees and a member of the board since it was established in 1962.

Back Copies Available

Back copies of *California Journal* from Volume 1, No. 1 (January 1970) to date are available to complete your set for reference purposes. The cost is $1.00 each for 1970 issues and $1.50 for 1971 issues, plus postage and handling. The 1970 index is available for an additional $1.00.

Binders for your *Journal* are now back in stock. The cost is $6.00 plus $.30 tax. Please specify whether you want the binder embossed with the date 1971 or 1972 or whether you want it without a date.

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Selected State Government Reports

EDUCATION

Ninth Annual Report on Personnel Matters in the California State Colleges, Office of the Chancellor of State Colleges, 5670 Wilshire Blvd., Los Angeles 90036. Jan., 1972. 33 p. Discusses major aspects of personnel programs and presents specific recommendations including salary increases.

High School Accreditation, Legislative Analyst, State Capitol, Sacramento 95814. Jan. 10, 1972. 6 p. Report pursuant to Chapter 1069, Statutes of 1970. Presents an overview and conclusions about the accreditation process.

Miller-Unruh Basic Reading Program, State Dept. of Education, 721 Capitol Mall, Sacramento 95814. 1971. 20 p. Annual report on the effectiveness of the program, including pupil scores and test data.

Reading Subscores in California's Statewide Testing Program, State Dept. of Education, 721 Capitol Mall, Sacramento 95814. 1971. 5 p.

Project Follow-up at the Diagnostic Schools for the Neurologically Handicapped, Dept. of Education, 721 Capitol Mall, Sacramento 95814. Feb., 1972. 3 p. Summary report prepared for the Joint Legislative Budget Committee.

ENVIRONMENT

Final Summary of Selected Legislation Relating to the Environment, Natural Resources, and Wildlife Enacted During 1971 Regular Session, Senate Committee on Natural Resources and Wildlife. Senator John A. Nejedly, Chairman. December, 1971. 108 p.

California Advisory Commision on Marine and Coastal Resources, Proceedings of the 11th Meeting, "The Monterey Bay Pilot Planning Project: An Experiment in Decision-Making in Coastal Zone Planning". Dec., 1971. 136 p. Includes all materials relevant to the May meeting, including many working papers on the coastal issues.

Revenue Sources to Support New Role for Division of Forestry, Legislative Analyst, State Capitol, Sacramento 95814. Feb. 1, 1972. 22 p. Deals with the financial responsibility for fire protection services for privately owned wildlands.

Report on Preliminary Findings, Assembly Select Committee on Industrial Safety, State Capitol, Sacramento 95814. Jan. 25, 1972. 6 p. Explores problems within the Division of Industrial Safety.

Air Quality and Emissions 1963-1970, Air Resources Board, 1025 P Street, Sacramento 95814. Nov., 1971. 31 p. Shows year-to-year change in emissions and average concentrations in four California air basins.

Oil Spill Policy, The Resources Agency, 1416 Ninth Street, Sacramento 95814. Feb., 1972. 5 p. The response of this agency to resolutions adopted by the Legislature concerning the state's position on oil spills.

Air Pollution Control in California, Air Resources Board, 1025 P St., Sacramento 95814. Jan. 10, 1972. 65 p. Fourth annual report — summary of control efforts and measured air quality.

Watermaster Service in the Central Basin (Los Angeles County), Dept. of Water Resources, 1416 Ninth Street, Sacramento 95814. Jan., 1972. 53 p. plus appendices. Review of water supply conditions in the basin during 1970-71.

LEGISLATURE

A Summary of Significant Bills (1971), Assembly Office of Research, State Capitol, Sacramento 95814. Feb., 1972. 55 p. Bills passed during the 1971 session, including some measures which were vetoed.

Report on Legislation for 1971 Legislative Session, Senate Republican Caucus, John L. Harmer, Chairman, State Capitol, Sacramento 95814. Jan. 31, 1972. 286 p. Comprehensive compilation of measures passed by both houses.

MOTOR VEHICLES

Report on Use & Control of Motorized Recreational Vehicles on State Forested Lands, State Lands Commission & Division of Forestry, 1416 Ninth St., Sacramento 95814. Jan., 1972. 5 p. plus attachments. Concerns snowmobiles.

Commercial Vehicle Population Study Report, Dept. of Motor Vehicles, P.O. Box 1828, Sacramento 95809. Feb., 1972. 100 p. plus appendices. Deals with weight fees structure.

PUBLIC FINANCE

Analysis of the Budget Bill, Report of the Legislative Analyst to the Joint Legislative Budget Committee, State Capitol, Sacramento 95814. February 1, 1972. 1243 p. For the 1972-73 fiscal year.

Final Summary of Legislative and Executive Action on the Budget Bill and Other Measures with Fiscal Implications, Legislative Analyst, State Capitol, Sacramento 95814. 124 p. Summarizes 1971 legislative and executive action on bills involving current or future revenues or expenditures, reorganizations, or the assumption of new duties.

Plan for Consolidation of Fiscal Activities in the Dept. of Education, Dept. of Education, 721 Capitol Mall, Sacramento 95814. Jan. 21, 1972. 13 p. Plan submitted to Joint Legislative Budget Committee in response to the Legislative Analyst's recommendation.

Assessment Practices Survey, State Board of Equalization, 1020 N Street, Sacramento 95814. Dec. 30, 1971. 12 vol. Surveys of assessment procedures in Kern, Nevada, Shasta, Stanislaus, Riverside, San Francisco, Trinity, Del Norte, Mono, Contra Costa, and Imperial counties.

MISCELLANEOUS

Report to the California Legislature on State Employment, State Personnel Board, 801 Capitol Mall, Sacramento 95814. Dec., 1971. 9 p. Progress report on the board's program to provide affirmative equal employment opportunities in state employment.

Report to the Governor . . . on Violence in California Prisons, Board of Corrections, 714 P Street, Sacramento 95814. Oct. 9, 1971. 26 p. Contains many board recommendations pertaining to increases in personnel, training, salaries, and security.

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I do not believe in democracy, but I am perfectly willing to admit that it provides the only really amusing form of government ever endured by mankind.

–H. L. Menken

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